

## **UPDATE INFORMATION**

# **Vols. I & II – Portland City Code**

## **June 30, 2021 – Quarterly Update**

Retain this page to document what update was last applied to your books.

### **How to download Code update packets and/or Code Titles:**

1. Go to <http://www.portlandoregon.gov/efiles>
2. Do Advance Search for **City Code Folder version** and under SORT BY check Descending.
3. Locate quarter you want and click on the plus sign to see the available update packet and/or Code Title(s).
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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, 2021



**CODE OF THE CITY OF PORTLAND, OREGON**  
**Insertion Guide for Code Revisions**  
**Office of the City Auditor 503-823-4082**  
**2nd Quarter 2021 (June 30, 2021)**

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<b>Chapter 3.127</b>	<b>BUREAU OF PORTLAND FIRE AND POLICE DISABILITY AND RETIREMENT</b>
3.127.010	Bureau of Portland Fire and Police Disability and Retirement.
3.127.020	Purpose.
3.127.030	Organization.
3.127.040	Director's Powers and Duties.
3.127.050	Staff and Delegation.
<b>Chapter 3.128</b>	<b>OFFICE OF EQUITY AND HUMAN RIGHTS</b>
3.128.010	Creation and Organization.

3.128.020	Purpose.
3.128.030	Director's Powers and Duties.
3.128.040	Administrative Rulemaking Procedures.
<b>Chapter 3.129</b>	<b>HUMAN RIGHTS COMMISSION</b>
3.129.010	Staffing and Membership.
3.129.020	Mission.
3.129.030	Jurisdiction.
<b>Chapter 3.130</b>	<b>ADMINISTRATIVE APPEALS</b>
3.130.010	Definitions.
3.130.020	Timely and Adequate Notification of Right to Appeal Required.
<b>Chapter 3.131</b>	<b>NEW PORTLANDERS POLICY COMMISSION</b>
3.131.010	Mission.
3.131.020	Membership and Staffing.
3.131.030	Purpose.
3.131.040	Organization and Meetings.
<b>Chapter 3.132</b>	<b>Community Involvement Committee for legislative projects under the Comprehensive Plan.</b>
3.132.010	Purpose.
3.132.020	Membership, Meetings, and Organization.
<b>Chapter 3.133</b>	<b>RENTAL SERVICES COMMISSION (RSC)</b>
3.133.010	Rental Services Commission Established.
3.133.020	Mission.
3.133.030	Duties.
3.133.040	Membership.
3.133.050	Meetings.
3.133.060	Quorum.
3.133.070	Chairperson.
3.133.080	Committees.
3.133.090	Staffing.
3.133.100	Cooperation.
<b>Chapter 3.134</b>	<b>OFFICE OF THE PORTLAND CHILDREN'S LEVY</b>
3.134.010	Creation, Organization, and Purpose.
3.134.020	Director's Powers and Duties.
3.134.030	Duration and Dissolution.



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**CHAPTER 3.02 - COUNCIL ORGANIZATION  
AND PROCEDURE**

(Chapter replaced by Ordinance No. 160414,  
effective February 16, 1988.)

**Sections:**

- 3.02.010 Council Meetings.
- 3.02.020 Special Meetings.
- 3.02.025 Attendance by Electronic Communication.
- 3.02.026 Attendance by Electronic Communication until June 30, 2022.
- 3.02.030 Entry of Documents on Agenda.
- 3.02.035 Ordinance Wording.
- 3.02.036 Consent Agenda.
- 3.02.037 Time Certain Agenda.
- 3.02.040 Rules of the Council.
- 3.02.050 Authority to Adopt Rules, Procedures and Forms.
- 3.02.060 Rules of Conduct at City Council Meetings, Ejection and Exclusion.

**3.02.010 Council Meetings.**

(Amended by Ordinance Nos. 166314, 170834, 177787, 182541 and 190476, effective June 30, 2021.) A regular meeting of the City Council shall be held once a week and will generally be held each Wednesday, commencing at 9:30 a.m., and, as necessary, recessed sessions will be held each Wednesday at 2:00 p.m. and the following Thursday at 2:00 p.m. in the Council Chambers. City Council may hold its recessed session in the evening of either day beginning at 6:00 p.m. upon motion adopted by the Council at least 2 weeks prior to the meeting date. When either day falls on a legal holiday the meeting shall be held on the next succeeding business day at the same hour unless otherwise directed by Council during a regularly scheduled session not less than two weeks prior to the meeting. Any session may, upon motion adopted by the Council, be held at a place other than the Council Chamber, but the place shall be within the City limits.

**3.02.020 Special Meetings.**

(Amended by Ordinance No. 185877, effective March 1, 2013.) Special meetings of the Council may be held at any time upon a request signed by three members of the Council. A written notice of the time and place of the meeting shall be delivered by the Auditor to each member of the Council at his or her office in the City Hall, not later than 24 hours preceding the meeting. The Auditor shall also post on the City's website and distribute electronically to interested persons a notice of the meeting containing a summary of matters anticipated to be considered, not later than 24 hours preceding the meeting. The Mayor, the President of the Council or any three members of the Council may call an emergency special meeting of the Council under any of the following conditions:

- A. A disaster which has occurred or is imminent;



- B.** An emergency affecting or tending to affect the public health or safety;
- C.** War or hostile enemy action;
- D.** A civil defense alert on the immediate possibility of enemy action;
- E.** An emergency declared by the Governor;
- F.** An emergency declared by the President of the United States. The requirements contained in this Section for the agenda and for publication and notice of special meetings shall not apply, but the person or persons calling the emergency special meeting shall notify every other available Council member and the City Auditor or Deputy Auditor, and notification to the media and other interested persons is required. The minutes for the meeting shall describe the emergency justifying less than 24 hours notice. The notice must be appropriate to the circumstances. At an emergency special meeting only matters connected with the emergency shall be considered. No emergency special meeting shall be held without the presence of the Auditor, Deputy Auditor or Auditor's designee who shall act as the clerk of the meeting according to appropriate provisions of the Charter and shall keep a full and complete record of the proceedings. An emergency special meeting shall be deemed to be in session upon the presence of a quorum, and consideration of any ordinance or resolution at an emergency special meeting shall be governed by the appropriate Sections of the Charter. No ordinance or resolution shall be considered at the emergency special meeting unless it is in writing and unless an original copy has been filed with the Auditor before action thereon. An emergency special meeting may be held at a place other than the Council Chambers but shall be open to the public and all provisions of the Charter relating to legislative acts of the Council shall apply to any ordinance passed by the Council at the emergency special meeting.

**3.02.025 Attendance by Electronic Communication.**

Members of the City Council may attend and be present at public meetings by means of telephone or other electronic communication allowing voice transmission provided that all the conditions in Subsections A. – D. are fulfilled.

- A.** An emergency exists such that failure to allow participation of City Council members by electronic communication would jeopardize the public interest, health, safety or welfare.
- B.** Prior to commencement of the meeting, the Auditor or designate shall make reasonable efforts to notify all City Council members who are expected to be unable to be physically present at the location of the meeting in order to give them an opportunity to participate by electronic communication.

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- C.** At the commencement of the meeting, the Council shall make a record of the circumstances constituting the emergency which requires use of electronic communication and a record of the nature and extent of the attempts made to give each physically absent Council member an opportunity to participate by electronic communication. After making this record, the Council shall give an opportunity to all those physically present at the meeting to state on the record any objection they have to conducting the meeting by electronic communication.
- D.** Except for an executive session, the Council shall make available at least one place where the public entitled to attend the meeting can listen to the communication at the time it occurs by speakers or other devices. The place provided may be a place where no members of the Council are present. All other requirements of state law and City Code concerning the conduct of meetings by electronic communication shall be met.

**3.02.026 Attendance by Electronic Communication until June 30, 2022.**

(Added by Ordinance No. 190476, effective June 30, 2021.) Notwithstanding Section 3.02.025, until June 30, 2022, the following provisions apply to Council attendance by electronic communication. On and after June 30, 2022, this section is repealed, and Section 3.02.025 will apply.

- A.** Members of the City Council may attend and be present at public meetings by means of telephone or other electronic communication.
- B.** City Council members who expect to attend by means of telephone or other electronic communication must notify the Auditor or designate prior to commencement of the meeting or as soon as reasonably practicable. The Auditor or designate must make reasonable efforts to notify all City Council members when some or all members are expected to attend by means of electronic communication.
- C.** Except for an executive session, the Council shall make available at least one place where the public entitled to attend the meeting can listen to the communication at the time it occurs by speakers or other devices. The place provided may be a place where no members of the Council are physically present. All other requirements of state law and City Code concerning the conduct of meetings by electronic communication shall be met.
- D.** The Presiding Officer or designee may rely on information provided by any member of the Council, City staff or Person-in-Charge as designated in Code Section 3.18.010 who is physically present at the Council meeting that a person has disrupted the meeting or engaged in dangerous or threatening behavior for purposes of Code Section 3.02.060.

**3.02.030 Entry of Documents on Agenda.**

(Amended by Ordinance Nos. 165402, 166314, 170834, 177787, 182515, 185877 and 188719, effective December 13, 2017.)

- A.** Notice and Filing of Documents. The City Auditor shall post on the City’s website and distribute electronically to interested persons, at least 24 hours before each meeting, a summary of matters to come before the Council at the next meeting. The summary shall be known as the Portland City Council Agenda. Documents for inclusion on the Agenda shall be filed in the Office of the City Auditor before 12:00 p.m. each Tuesday of the week preceding the Council meeting except when otherwise required due to the date of a legal holiday. In this event, the Auditor shall give notice to all bureaus of the revised time for filing agenda items.
- B.** The Order of Business on the Council Agenda. Items of Council business shall be heard in the following order:
- 1.** Communications from the public or governmental jurisdictions other than City.
  - 2.** Time Certain matters.
  - 3.** Consent Agenda.
    - a.** Reports of City Officers;
    - b.** Reports from Committees or Commissions;
    - c.** Matters submitted by Order of Council, a Committee of Council or by two or more Council members;
    - d.** Items introduced by and identified as such from:
      - (1)** The Mayor;
      - (2)** The Commissioners, in order of position. Beginning January 1 of every year, items introduced by the Commissioner in Position No. 1 shall be placed first, followed by the Commissioner in Position No. 2, then the Commissioner in Position No. 3, then the Commissioner in Position No. 4. The order of placement shall be modified on the first day of each subsequent calendar quarter so that items introduced by the Commissioner whose Position number was first in order in the previous calendar quarter are placed last in order; and
      - (3)** The City Auditor.

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The provisions of Section 3.02.036 shall apply to matters on the Consent Agenda.

4. Regular Agenda. The business of the Council on the Regular Agenda shall be presented in the same order as items B.3.a.-d. above.

**C. Schedule of Council items.**

1. The Auditor's Office has the discretion to schedule items in a manner making the best use of Council time including consolidating all of the Council's business into one session. Generally, business items including purchases, contracts, personnel actions, budgetary matters, franchises, claims, nuisances, street vacations, local improvements, permits and similar actions will be presented at the Wednesday 9:30 a.m. meeting.
2. Appeals and hearings of land use matters which require notification under the Planning and Zoning Code will generally be scheduled at the recessed meeting. on Wednesday unless otherwise announced.
3. Any item of business which is expected to require considerable testimony and/or Council discussion may be filed for consideration at the Wednesday or Thursday sessions and may be the only item to be heard, if the Auditor so determines.
4. The Auditor may shift matters listed for presentation on Thursday to the following Wednesday if, due to items being withdrawn, there are insufficient items to merit holding a Thursday session. Notice shall be placed on the council Chamber door stating the reschedule date and time.
5. Matters not appearing on the Agenda may be considered by the Council under suspension of rules at any session.
6. The Auditor shall prepare a supplementary Agenda which shall be designated and known as the Four-Fifths Agenda, which shall contain a summary of matters filed in his or her office not later than 5:00 p.m. on the preceding Tuesday for consideration at either the following Wednesday or Thursday session. All documents filed with the Auditor intended for the Four-Fifths Agenda shall be initialed by four members of the Council or their representatives, as designated in Section 3.02.040 D.2.
7. Matters ordered by the Council to be considered at a special time other than the listed sessions shall be considered at the special time as directed by the Council. Council members may direct that special items be listed for meetings other than those specified above.

**3.02.035 Ordinance Wording.**

- A.** Ordinance exhibits.
  - 1.** If the directive portion of an ordinance refers to an exhibit, unless the ordinance directs otherwise, the following language is understood to follow; to wit “said exhibit is by this reference incorporated as if set out verbatim.”
  - 2.** Unless the ordinance directs otherwise, the Auditor shall determine when a copy of an exhibit is to be provided with a copy of the ordinance.
- B.** Appropriation designation. The budget ordinance makes the annual appropriation and defines the level of accounting control. When the directive section of an ordinance includes a reference to an appropriation, the ordinance shall control the appropriation at the same accounting level in the original budget ordinances. These appropriations are subject to the limitations on specific appropriations or types of expenditure stated in the budget ordinance. The designation of an appropriation in an ordinance by subaccount below the level of control may be adjusted administratively without an amending ordinance provided there is no change in the appropriation at the level of control, unless the ordinance directs otherwise.

**3.02.036 Consent Agenda.**

(Amended by Ordinance Nos. 166314 and 17787, effective August 13, 2003.)

- A.** Those who file documents for inclusion on the Council Agenda shall clearly designate such items as “Consent” or “Regular” Agenda. The Council Agenda shall clearly distinguish Consent from Regular Agenda items. The Auditor shall make an appropriate designation if none is assigned.
- B.** The Consent Agenda may include any matter for Council consideration except:
  - 1.** Appeals of land use decisions or other land use matters requiring a hearing under City Charter or State law;
  - 2.** Any matter which will increase an appropriation unit’s budget; or
  - 3.** Any matter requested to be placed on the regular agenda at the time of filing with the Auditor.
- C.** The Consent Agenda shall be positioned in the Council Agenda in accordance with Section 3.02.030.
- D.** An item designated for the Consent Agenda may be removed from the Consent Agenda by a Council member or any individual prior to Council vote on the Consent Agenda. The request may be in either written or verbal form. When removed, items shall be considered individually at the end of the Consent Agenda

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at the same Council meeting. A request to pull an item from Consent shall be made to the City Auditor prior to the beginning of the Council meeting, or presented verbally at the Council meeting.

- E.** At any meeting at which there is a Consent Agenda, the ayes and nays shall be taken upon the passage of all items on the Consent Agenda by a single Council vote. It shall not be necessary that there be a reading of the titles or the effect of the items on a Consent Agenda. Items on a Consent Agenda shall not be subject to amendment or debate. Consideration of the Consent Agenda requires at least four Council members to be present and voting. Action on the Consent Agenda shall require a unanimous vote of all Council members present.

**3.02.037 Time Certain Agenda.**

(Amended by Ordinance Nos. 177787 and 184046, effective September 10, 2010.)

- A.** Any Council member, the City Auditor, City Attorney, City Purchasing Agent, Hearings Officer, City Planning and Sustainability Commission, and any other City appointed board or commission filing an item with the City Auditor for City Council consideration may designate the item as “time certain.”
- B.** A request for time certain designation shall be made in writing to the City Auditor at least 4 days prior to the filing deadline for the regular Council agenda items; or by verbal request by the City Council or member thereof at any time prior to City Council action on a particular item. The request shall include an estimate of time to be devoted to the particular item.
- C.** The City Auditor shall schedule the item for hearing before the City Council and inform the office requesting the time certain designation.
- D.** The Council Agenda shall clearly distinguish time certain items from all other items.

**3.02.040 Rules of the Council.**

(Amended by Ordinance Nos. 162784, 165402, 166075, 166314, 170834, 177787, 178617, 180371, 182515 and 188280, effective April 14, 2017.)

- A.** Suspension and Repeal of Rules - Robert’s Rules of Order.
  - 1.** These rules are a combination of some provisions from the City of Portland Charter and of the Council Rules. These rules are adopted pursuant to Charter Section 2-111.
  - 2.** Non Charter provisions adopted under this section may be suspended or repealed as provided by Section 3.02.040 I.8. The Charter provision may not be suspended or repealed except by a vote of the people.

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3. “Robert’s Rules of Order Newly Revised” shall be considered authority in deciding any questions arising on points of order not covered by these rules.

**B. Quorum Requirement.**

1. Three members of the Council shall constitute a quorum. A quorum shall be required to conduct official City business except that less than a quorum may:
  - a. Adjourn or recess the meeting; and
  - b. Compel the attendance of the other members.
2. In the event a quorum is not present, the members present shall adjourn to some fixed time.
3. The City Auditor is authorized to indicate for the record when a Council meeting has been cancelled for lack of a quorum, and at that time shall identify for the record the date and time when any items scheduled for the cancelled agenda shall be considered. Notice of the rescheduled date and time shall be placed on the Council Chamber door.

**C. Presiding Officer.**

1. The Mayor shall preside over all meetings, except in the Mayor’s absence the President of the Council shall preside.
2. When a quorum is present, but the Mayor and President of the Council are absent, the following procedures shall be used:
  - a. The member present who most recently served as President of the Council shall serve as President pro tempore; or,
  - b. The duties of President pro tempore shall be assumed by the Council member holding the position with the lowest number if no member present has served formerly as President of the Council.

**D. Council Agenda.**

1. Ordinances, resolutions and reports shall be introduced by the Council, a committee of the Council, a member of the Council or the City Auditor.
2. A matter placed on the Four-Fifths agenda shall be approved for placement on the agenda by at least four Council members each of whom will be present when the matter is considered.

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3. Time certain items shall be placed on the agenda as provided by Section 3.02.037 and shall be considered as close to the designated time as possible.
4. Items on the regular agenda shall be considered in the numerical order listed except the order of the agenda may be changed by a majority vote of the Council.
5. All questions relating to the priority of business shall be decided without debate by a majority vote.
6. Postponement of Land Use Hearings.
  - a. A request to postpone the scheduled date of a quasi-judicial land use hearing before Council must be made in writing and filed with the City Auditor at least seven (7) days before the scheduled hearing date. The Council will not consider or grant any request to postpone such a hearing that is filed less than seven (7) days before the scheduled hearing date unless:
    - (1) The applicant and appellant all agree in writing to a postponement, or
    - (2) The Council finds circumstances exist that justify the late filing of a written request for a postponement and that failing to postpone the hearing will result in substantial prejudice to a party's interests.
  - b. The exception in Section 3.2.040 D.6.a. is available only when the applicant and appellant are different persons or entities.
  - c. The Council makes the final determination as to whether the person requesting the postponement under Section 3.02.040 D.6.a.(2) has adequately shown that circumstances exist justifying a postponement. Persons relying on this exception to request a postponement should be prepared to proceed with a scheduled appeal hearing in the event the Council denies the request for a postponement.
  - d. Guidelines.
    - (1) Examples of circumstances that potentially qualify as circumstances justifying a postponement less than seven days before the scheduled hearing date Section 3.02.040 D.6.a.(2) include:
      - (a) Death of a family member;



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- (b) Illness or hospitalization of the person requesting the postponement, the applicant or the appellant, or a member of such person's family;
- (c) Unavailability of a key witness or consultant;
- (d) Unavoidable scheduling conflict not known in advance (such as a conflicting court date or hearing date before another hearings body).

**E. Preparation of Council Agenda.**

1. The Auditor shall prepare the agenda.
2. The asterisk symbol, \*, shall precede the Agenda number of each emergency ordinance. Ordinances passed to second reading and continued matters shall specify the Agenda number under which the item was most recently listed.
3. The Commissioner in charge shall report on matters in their assigned bureau and shall:
  - a. Prepare a report in writing which states the facts and a recommendation;
  - b. Sign the report, however, the report may be signed by an authorized administrative assistant.
4. A request from the public to address Council shall be in writing, and be in a form which states:
  - a. the nature of the request;
  - b. the reason for the request; and
  - c. the requester's name, address and phone number.

The Clerk will notify the requester of the date it will be considered by Council; the request will normally be placed at the beginning of the Regular Agenda at the Wednesday morning session. The requester will be given three minutes to testify but may also submit written materials before or at the meeting. Only five communication requests will be placed on the Agenda per week. Requesters are limited to one oral communication to Council per calendar month under this section. Once a requestor has presented an oral communication to the Council under this section, the Clerk shall not schedule that person for another oral communication to

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Council in the same calendar month.

- 5.** Matters being placed on the agenda shall be:
  - a.** Signed by a Commissioner or the City Auditor or a designee for whom an authorization has been filed with the City Auditor. When the matter is not signed by the Commissioner in Charge or the Auditor, then notice of such action shall be given to all members of Council at least one week prior to the hearing of the matter.
  - b.** Approved by the City Attorney in the case of contracts, amendments to contracts, easements, Code changes, Charter amendments and Comprehensive Plan amendments.

**F.** Duties of the Presiding Officer.

- 1.** The presiding officer shall:
  - a.** Preserve order and decorum;
  - b.** Name who is to speak first when two or more members address the presiding officer at the same time;
  - c.** Limit discussion by Council members so that no member speaks more than once on an agenda item until every other member choosing to speak has spoken unless the requested speech is necessary for others to understand the issue being considered; and,
  - d.** Decide all questions by Order subject to an appeal to the Council as a whole by any two members.
- 2.** The presiding officer may:
  - a.** Speak to points of order before other members speak; and,
  - b.** Set limits for public testimony.
  - c.** Enforce the Rules of Conduct at City Council meetings described in Section 3.02.060.

**G.** Readings, Public Testimony and Council Debate.

- 1.** Non Emergency Ordinance.
  - a.** A non-emergency ordinance shall have two public readings of its title or the effect of the ordinance.



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member may ask the Council to rule on the question of being able to continue with speech, but there shall be no debate. Three affirmative votes shall be required to overrule the presiding officer.

#### **H.** Motions.

1. All motions shall be distinctly worded, and the individual vote on each motion shall be recorded.
2. No motion shall be received when a question is under debate except for the following:
  - a. To lay the matter on the table;
  - b. To call for the previous question;
  - c. To postpone to a date certain;
  - d. To refer;
  - e. To amend; or,
  - f. To postpone indefinitely.
3. Motions set forth in Section 3.02.040 H.2. shall have the following priority; Section 3.02.040 H.2.a. shall have the highest priority and Section 3.02.040 H.2.f. the lowest. A demand for a roll call shall not abrogate the right to make any of the motions in accordance with the priorities.
4. No motion shall be considered unless it is seconded and once a motion is seconded:
  - a. It shall be stated by the presiding officer before debate; and,
  - b. It shall be reduced to writing if requested by a Council member.
5. A motion may be withdrawn by the mover at any time before an amendment is made to it or if no amendment is made, before a vote is taken on it.
6. A Council member may have a motion divided which contains several elements, but the mover shall have the right to designate upon which element the vote shall first be taken.
7. A motion to call the previous question shall preclude all amendments and debate on the main question until it is decided.

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8. A motion to lay a matter on the table shall be decided without debate. A matter on the table may be considered at any regular, recessed, or special meeting of the Council except that Four-Fifths agenda items require a vote as provided in Section 3.02.040 I.7.
9. The presiding officer shall allow sufficient time for an amendment before ordering the roll to be called. No amendments shall be considered during the roll call, but a Council Member may explain succinctly the reasons for the vote.
10. The minutes shall include all motions.

**I. The Required Vote.**

1. Non Emergency Ordinances.
  - a. An Ordinance Involving a Fee Matter. An ordinance involving a fee matter is an ordinance which approves, approves with conditions or denies a request for which a fee has been paid. Three affirmative votes shall be required to pass an ordinance involving a fee matter. In the event there is a tie vote, the matter shall be continued to the next regular agenda or to such other times as the Council may direct.
  - b. An Ordinance Not Involving a Fee Matter. Three affirmative votes shall be required to pass a non-emergency ordinance which does not involve a fee matter. In the event there is a tie vote, the matter shall fail.
2. Emergency Ordinances. The unanimous vote of all members present and no less than four members shall be required to pass an emergency ordinance.
3. Resolutions. Three affirmative votes shall be required to pass a resolution.
4. Land Use Planning Orders. Three affirmative votes shall be required to deny or affirm an appeal of a quasi-judicial matter before the Council and to adopt the findings, conclusion and order.
5. Consent Agenda. The unanimous vote of all members of the Council present and no less than four members shall be required to approve the matters on the consent calendar.
6. Reports. Three affirmative votes shall be required if approval or acceptance of a report is requested. No vote shall be required on reports of an informative nature which request no Council action; they will be placed on file or filed for no further consideration.

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- 7.** Four-Fifths Calendar.

    - a.** Three affirmative votes shall be required to pass a matter on the Four-Fifths Calendar.
    - b.** A Four-Fifths matter laid on the table may not be taken up at the same meeting without a Four-Fifths vote, but it may be taken up at a subsequent meeting by a majority vote.
  - 8.** Suspension of Rules. Four affirmative votes shall be required to suspend or rescind a rule contained in this Chapter, however, rules in this Chapter which also appear in the Charter shall not be suspended or rescinded.
  - 9.** Exceptions. The requirement of three affirmative votes shall not apply to a motion to adjourn or recess or to compel the attendance of absent members. It shall require an affirmative vote of a majority of the Council Members present.
  - 10.** Ordinance Granting Franchise. Four affirmative votes shall be required to pass an ordinance granting a franchise.
  - 11.** Recordation of Vote. The minutes shall include the results of all votes.
  - 12.** Order of Voting. In all roll call votes, the Mayor shall vote last. The roll call for Commissioners' votes shall be in order of position. Beginning January 1 of every year, the Commissioner in Position No. 1 shall vote first, followed by the Commissioner in Position No. 2, then the Commissioner in Position No. 3, then the Commissioner in Position No. 4. The roll call order shall be modified on the first day of each subsequent calendar quarter so that the Commissioner whose position number was first in the roll call order in the previous calendar quarter shall vote last.
- J.** Reconsideration.
- 1.** It shall be in order for any member who voted with the prevailing side to move for reconsideration. Any member may second the motion. No motion shall be made more than once.
  - 2.** No motion for reconsideration shall be made after the ordinance, resolution or act has gone out of the possession of the Council. The motion shall be made before the final adjournment of the meeting when the item goes out of possession of the Council.
  - 3.** The prevailing side in a motion to remove the emergency clause from an emergency ordinance is the side which prevented the emergency ordinance from being enacted.

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**K.** Effective Date.

1. The following ordinances shall take effect immediately upon the passage or at any specified date less than thirty days after passage.
  - a. Ordinances making appropriations and the annual tax levy;
  - b. Ordinances relative to local improvements and assessments; and
  - c. Emergency ordinances.
2. A non-emergency ordinance except as provided in Section 3.02.040 K.1.a. and b. and the Charter for an ordinance granting a franchise shall take effect thirty days after passage unless a later date is fixed on the ordinance in which event it shall take effect at the later date. The filing of a referendum petition shall suspend the effective date of the ordinance.
3. A resolution shall become effective upon adoption unless otherwise stated in the resolution.

**L.** Objection to Ordinance.

1. At any time within ten days after the passage of any ordinance which does not take effect immediately, any member of the Council may file, in writing, objections to the ordinance, which shall be considered and voted by the Council at its next regular meeting.
2. If a majority vote to sustain the objections, the ordinance shall be deemed repealed and shall not take effect unless again passed in the same manner as a new ordinance.

**M.** Appointments.

1. The Mayor shall make all appointments to Committees unless otherwise ordered by the Council or otherwise provided by Charter or Code.
2. The member first named shall act as chairperson.

**N.** Adjournment.

1. A motion to adjourn shall require an affirmative vote of a majority of the Council Members present and shall be decided without debate.
2. When a motion to adjourn has been put to a vote, and it has failed, it shall not be considered again until some other business has been considered.

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**3.02.050 Authority to Adopt Rules, Procedures and Forms.**

(Added by Ordinance No. 177787, effective August 13, 2003.) The Auditor is authorized to adopt rules, procedures, and forms to implement the provisions of Chapter 3.02.

**3.02.060 Rules of Conduct at City Council Meetings, Ejection and Exclusion.**

(Added by Ordinance No. 188280; amended by Ordinance Nos. 189556 and 190476, effective June 30, 2021.)

- A.** To preserve order and decorum, the presiding officer or designee may direct that any person who disrupts any Council meeting, or any person who engages in dangerous or threatening behavior, after first having been warned to cease and desist from such disruption or dangerous or threatening behavior, be ejected or excluded from Council Chambers or such other place as the Council may be in session.
- B.** For purposes of this Section, an ejection is an order made by a Person-in-Charge to immediately leave the meeting, and an exclusion is an order made by the Chief Administrative Officer of the Office of Management and Finance, the Deputy Chief Administrative Officer of the Office of Management and Finance, or their designees prohibiting a person from entering or remaining at future meetings for a specified period of time.
- C.** Ejection or exclusion shall be issued in the following manner:

  - 1.** The presiding officer or designee will give a warning to the person engaging in disruptive, dangerous or threatening behavior. If the person engaging in disruptive, dangerous or threatening behavior does not cease that behavior following the warning, the presiding officer or designee will issue an ejection. An ejection shall be for the remainder of the session at which the disruptive, dangerous or threatening behavior has occurred.
  - 2.** For purposes of this Section, a person disrupts a meeting of the Council if the person engages in any conduct that obstructs or impedes the orderly carrying on of the business of the meeting. Such conduct includes, but is not limited to: any conduct that substantially prevents any other person from hearing, viewing or meaningfully participating in the meeting; any conduct that substantially interferes with ingress or egress to or free movement within the Council Chambers or such other place as the Council may be in session; shouting over, or otherwise disrupting, any person who is recognized by the presiding officer; any conduct that substantially interferes with City business conducted by City staff present at the session; or failure to obey any reasonable direction of the presiding officer.
  - 3.** A direction of the presiding officer is reasonable if it is reasonably related to maintaining order and decorum. A direction of the presiding officer is



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not reasonable 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.

- 4.** For purposes of this Section, behavior is dangerous or threatening if a reasonable person, exposed to or experiencing such behavior, could believe that the person was in imminent danger of physical harm from the behavior. Notwithstanding the provisions of this Section, if the presiding officer reasonably believes that a person's dangerous or threatening conduct constitutes an emergency, the presiding officer is not required to give the person a warning before ordering the person ejected.
- D.** If a person has previously been ejected for dangerous or threatening behavior before the Council within 1 year before the date of the present ejection, or for disruptive behavior on three or more separate occasions within 1 year before the date of the present ejection, the person shall be excluded from Council meetings for 30 days. Written notice of such exclusion shall be given as provided in this Section.
- E.** If a person has been excluded from the Council on one or more occasions within 1 year before the date of the present exclusion, the person shall be excluded from Council meetings for 60 days. Written notice of such exclusion shall be given as provided in this Section.
- F.** The Chief Administrative Officer of the Office of Management and Finance, the Deputy Chief Administrative Officer of the Office of Management and Finance, or their designees, shall give written notice of any exclusion issued under this Section, and the person excluded may appeal the exclusion to the Code Hearings Officer in the manner provided under Section 3.18.030.
- G.** Notwithstanding any other provisions of this Code, the Hearing Officer's review of the question of whether the excluded person in fact engaged in disruptive, dangerous or threatening behavior shall be based upon the audio and video record of the meeting, applying the criteria described in this Section. Under no circumstances shall the presiding officer or any member of the Council be compelled to testify at the hearing, or in any proceeding connected therewith. The exclusion shall be stayed upon the filing of the notice of appeal, but any stayed exclusion shall be counted in determining the length of any subsequent exclusion under this Section. If any exclusion is reversed on appeal, the effective periods of any exclusions that are not reversed shall be adjusted accordingly. If multiple exclusions issued to a person are simultaneously stayed, the effective periods for those which are affirmed shall run consecutively.
- H.** It shall be unlawful for any person to be in the Council Chambers or in any other place where the Council is meeting, at any time during which there is in effect an ejection or an exclusion of the person from Council meetings.

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- I.** An exclusion issued under this Section does not affect or limit the right of the person excluded to submit written testimony or materials to the Council Clerk for inclusion in the record and for consideration by the Council, or otherwise lawfully to petition or seek redress from the City or its elected officials.
- J.** The provisions of this Section apply to any public meeting of a City board or commission. If a person engages in disruptive, dangerous or threatening behavior at a public meeting of a City board or commission, any Person-in-Charge may eject that person by applying the provisions of this Section.

CHAPTER 3.04 - SUBPOENA POWERS

**Section:**

- 3.04.010 Legislative Subpoena Power.
- 3.04.020 Administering Oaths to Witnesses.
- 3.04.030 Enforcement of Legislative Subpoena.

**3.04.010 Legislative Subpoena Power.**

(Amended by Ordinance No. 188362, effective May 10, 2017.)

- A. For the purpose of compelling the attendance of witnesses or the production of records, the Council may by resolution direct the Mayor or the Auditor to issue a subpoena under the seal of the City.
- B. After issuance, the subpoena shall be served in the manner of service as prescribed by State law for delivery of a summons by civil process in a court of competent jurisdiction. A return of service shall be delivered to the authority who issued the subpoena within 10 days after its delivery to the person for service, with proof of service of the subpoena or that the person cannot be found.
- C. The witness fees and mileage to be paid shall be the same as prescribed by State law for witnesses in the Circuit Court of the State for Multnomah County. Witnesses shall be reimbursed by the City, from funds as directed by Council.
- D. It is unlawful for any person so subpoenaed and served to neglect or refuse to attend at the proper time and place and to bring the records mentioned in the subpoena, or, having done so, to refuse or neglect to answer such questions as may be applicable to the matter under investigation or to allow the records to be examined, unless the person has first sought and obtained an order quashing the subpoena from a court of competent jurisdiction, in the same manner as provided for in a civil case. Failure to seek and obtain such an order waives any objections or defenses the person may have against compliance with the subpoena, whether or not the person made any specific objection or raised that specific defense in seeking the order to quash
- E. A witness shall not be required to answer any question or to act in violation of the witness's rights under the constitutions of the State or of the United States.
- F. For purposes of this Chapter 3.04, "records" shall mean any books, paper, documents or other information, in whatever format or however stored.

**3.04.020 Administering Oaths to Witnesses.**

(Added by Ordinance No. 188362, effective May 10, 2017.) The Presiding Officer of Council may administer oaths to any subpoenaed witnesses in any proceedings under the Council's examination.

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**3.04.030 Enforcement of Legislative Subpoena.**

(Added by Ordinance No. 188362, effective May 10, 2017.)

- A.** If a person subpoenaed as provided in Section 3.04.010 fails to appear to testify or fails to produce any records as required, or whenever any person so summoned refuses to answer any question pertinent to the subject under inquiry, the City Attorney may apply to any court of competent jurisdiction for an order to the person to attend and testify, or otherwise to comply with the subpoena.
- B.** The City Attorney's application to the court may seek an order requiring the person against whom the subpoena is directed to comply with the subpoena within three days after service of the order, or within such further time as the court may grant, or to justify the failure within that time.

**CHAPTER 3.05 - CITY AUDITOR'S AUDIT  
SERVICES DIVISION**

(Chapter replaced by Ordinance No. 170381,  
effective August 16, 1996.)

**Sections:**

- 3.05.010 Independence.
- 3.05.020 Scope of Audits.
- 3.05.030 Annual Audit Plan.
- 3.05.035 Special Audits.
- 3.05.040 Access to Information.
- 3.05.045 Confidential Information.
- 3.05.050 Response to Audit.
- 3.05.060 Audit Reports.
- 3.05.065 Report of Irregularities.
- 3.05.070 Contract Auditors, Consultants and Experts.
- 3.05.080 External Quality Control Review.

**3.05.010 Independence.**

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A. The Audit Services Division is established within the City Auditor's Office, answerable directly to the City Auditor in accordance with City Charter.
- B. The Audit Services Division will adhere to generally accepted government auditing standards in conducting its work and will be considered independent as defined by those standards.
- C. If the Audit Services Division conducts an audit of an activity for which the City Auditor is or was responsible, the audit scope will state that the auditors are not organizationally independent with regard to the entity being audited.

**3.05.020 Scope of Audits.**

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A. The Auditor shall conduct financial and performance audits of all departments, bureaus, offices, boards, activities, functions and administrative agencies of the City of Portland to independently determine whether:
  - 1. Activities and programs being implemented have been authorized by City Charter or Code, state law or applicable federal law or regulations;

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2. Activities and programs are being conducted in a manner contemplated to accomplish the objectives intended by City Charter or Code, state law or applicable federal law or regulations;
  3. The activities or programs efficiently and effectively serve the purpose intended by City Charter, Code, state law or applicable federal law or regulations;
  4. Activities and programs are being conducted and funds expended in compliance with applicable laws;
  5. Revenues are being properly collected, deposited and accounted for;
  6. Resources, including funds, property and personnel, are adequately safeguarded, controlled and used in a faithful, effective and efficient manner;
  7. Financial and other reports are being provided that disclose fairly and fully all information that is required by law, that is necessary to ascertain the nature and scope of programs and activities and that is necessary to establish a proper basis for evaluating the programs and activities;
  8. There are adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls which have been established by management; or
  9. Indications of fraud, abuse or illegal acts are identified for further investigation.
- B.** Audits shall be conducted in accordance with Government Auditing Standards for financial and performance audits issued by the Comptroller General of the United States.

**3.05.030 Annual Audit Plan.**

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A.** By the beginning of each fiscal year, the Auditor shall submit an annual audit plan to Council for review and comment. The plan shall include the departments, bureaus, offices, boards, activities, functions and administrative agencies scheduled for audit during the year. This plan may be amended during the year after review with Council members affected by the change. Additionally, the Auditor may spontaneously initiate and conduct any other audit deemed necessary to undertake.
- B.** In accordance with independence provisions of generally accepted government auditing standards, the authority for selection of audit areas shall reside solely with the City Auditor.

**3.05.035 Special Audits.**

- A.** Council members may request that the Auditor perform special audits that are not included in the annual audit plan. After consultation with Council members whose work would need to be postponed, special audits may become amendments to the annual audit plan.
- B.** Special audit reports will be handled the same as regular audit reports, except that in personnel matters of a confidential nature, reporting of results may be limited to the Commissioner in Charge and the Mayor.

**3.05.040 Access to Information.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) In accordance with City Charter, subject to collective bargaining obligations to the City's recognized bargaining units, the Auditor shall have timely access to all employees, information and records required to conduct an audit or otherwise perform audit duties, including confidential and legally privileged information and records so long as privilege is not waived as to third parties. All officers and employees of the City of Portland shall timely furnish the Auditor with requested information and records within their custody regarding powers, duties, activities, organization, property, financial transactions and methods of business required to conduct an audit or otherwise perform audit duties. In addition, they shall provide timely access for the Auditor to inspect all property, equipment and facilities within their custody. If such officers or employees fail to timely produce the aforementioned information, then the Auditor, subject to Council approval, may, without fee, cause a search to be made and exhibits to be taken from any book, paper or record of any such official or employee, excepting personal information, and every office having the custody of such records shall make a search and forward such requested exhibits to the Auditor.

**3.05.045 Confidential Information.**

(Added by Ordinance No. 183217; amended by Ordinance No. 188842, effective March 30, 2018.) The Auditor shall not disclose confidential or legally privileged information and records and shall be subject to the same penalties as the legal custodian of records for any unlawful or unauthorized disclosure. The Auditor shall maintain the confidentiality of information submitted in confidence and the identity of the provider of such information to the extent allowed by law, except as the Auditor deems necessary to discharge the Auditor's duties or as directed by the District Attorney pursuant to a public records request or by a court of competent jurisdiction.

**3.05.050 Response to Audit.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) A final draft of each audit report will be forwarded to the auditee and the Commissioner in Charge for review and comment before it is released. The auditee must respond in writing specifying agreement with audit findings and recommendations or reasons for disagreement with findings and/or recommendations, plans for implementing solutions to identified problems and a timetable to complete such activities. The response must be forwarded to the Auditor

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within the time frame specified by the Auditor. The Auditor will include the full text of auditee and Commissioner responses in the report.

**3.05.060 Audit Reports.**

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A. Each audit will result in a written report.
- B. Reports are to be issued promptly so as to make information available for timely use by Council, management and other interested parties.
- C. The Auditor will submit each audit report to the Council and will retain a copy as a permanent record.
- D. If appropriate, the audit report shall contain the professional opinion of the Auditor or the contract auditor concerning the financial statements issued by the auditee or if the audit is a performance audit, the report will contain the professional conclusions of the audit regarding the management activities audited.
- E. Audit reports issued by the Auditor shall contain:
  - 1. A statement of audit objectives and a description of the audit scope and methodology;
  - 2. A statement that the audit was performed in accordance with generally accepted government auditing standards;
  - 3. A description of all significant instances of non-compliance and abuse and all instances of illegal acts found during or in connection with the audit;
  - 4. A full discussion of audit findings and conclusions, including the cause of problem areas and recommendations for necessary or desirable action;
  - 5. A statement of all significant management controls that were assessed and any significant weaknesses found;
  - 6. Pertinent views of responsible officials concerning audit findings, conclusions and recommendations;
  - 7. A listing of any significant issues needing further study and consideration;
  - 8. A description of noteworthy accomplishments of the auditee.

**3.05.065 Report of Irregularities.**

If the Auditor detects apparent violations of law or apparent instances of malfeasance or nonfeasance by an officer or employee or information that indicates derelictions may be



reasonably anticipated, the Auditor shall report the irregularities to the Commissioner in Charge and the Mayor. If the irregularity is criminal in nature, the Auditor shall immediately notify the City Attorney and the District Attorney in addition to those previously cited.

**3.05.070 Contract Auditors, Consultants, and Experts.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) Within budget limitations, the Audit Services Division may obtain the services of certified public accountants, qualified management consultants, or other professional experts necessary to perform audit services. An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the governmental unit or its officers. The Auditor's Audit Services Division will coordinate and monitor auditing performed by public accounting or other organizations employed under contract by the City of Portland to assist with audit related activities.

In choosing the outside independent auditors to conduct the City's annual financial statement audit, the Auditor will convene a committee of at least three City bureau managers, including the Auditor or the Auditor's representative to prepare a request for proposal and to screen applicants. The Auditor's selection of a certified public accounting firm for the annual financial audit must be approved by Council. Normally, this contract will be for a three to five year period.

**3.05.080 External Quality Control Review.**

The Audit Services Division of the City Auditor's Office shall be subject to peer review at least once every three years by a professional, non-partisan objective group utilizing guidelines adopted by the National Association of Local Government Auditors. The review will evaluate compliance with generally accepted government auditing standards. A copy of the written report of any such independent review shall be furnished to each member of the City Council.

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**CHAPTER 3.06 - DEPARTMENTS, BUREAUS  
AND DIVISIONS GENERALLY**

**Sections:**

- 3.06.010 Departments Enumerated.
- 3.06.020 Bureaus and Divisions.
- 3.06.030 Acting Chief of Bureau or Office.

**3.06.010 Departments Enumerated.**

The administrative service of the City shall be divided into the following executive departments:

- A. Department of Public Affairs;
- B. Department of Public Safety;
- C. Department of Public Utilities;
- D. Department of Public Works;
- E. Department of Finance and Administration.

Each department shall be headed by a Commissioner.

**3.06.020 Bureaus and Divisions.**

The various functions and activities of the government of the City shall be assigned to bureaus, divisions, or other administrative units as herein provided by ordinance from time to time. The bureaus and activities assigned thereto shall be distributed to the departments by order of the Mayor.

**3.06.030 Acting Chief of Bureau or Office.**

(Added by Ordinance No. 135664, effective December 6, 1972.) Unless specifically provided otherwise by ordinance, in the absence because of illness, disability, vacation or leave of absence, and upon resignation, retirement or discharge, of the chief of any bureau or office, whose duties are general by virtue of that position, his chief assistant or deputy shall serve as acting chief and perform the duties of chief without additional compensation, until the Council, the Commissioner In Charge or the superior official in charge directs assigns or otherwise or a permanent successor is designated and takes office.

**CHAPTER 3.08 - TREASURER**

(Chapter replaced by Ordinance No. 151419;  
Amended by Ordinance No. 184539, effective May  
20, 2011.)

**Sections:**

- 3.08.010 Office.
- 3.08.020 Salary - Bond.
- 3.08.030 Duties of City Treasurer.
- 3.08.040 Treasurer Authorized to Deposit in Banks.
- 3.08.050 Liability of Treasurer for Deposit of Funds.
- 3.08.060 Council May Require Additional Security from Banks.
- 3.08.070 City Officers or Agents to Pay Money to the City Treasurer.

**3.08.010 Office.**

(Amended by Ordinance Nos. 158556 and 186746, effective August 6, 2014.) Public Finance and Treasury is a division within the Bureau of Revenue and Financial Services reporting to the Office of Management and Finance and shall consist of the City Treasurer, Debt Manager, Investment Officer, and such employees as the Council may provide.

**3.08.020 Salary-Bond.**

The salary of the City Treasurer shall be fixed by ordinance. A surety bond, payable to the City of Portland, in the sum of not less than \$200,000 shall secure the faithful performance and fidelity of City Treasurer duties. Any conflict between this Section and any other Sections in the City Code shall be interpreted to require the greater of any bond amounts or assurances in favor of the City.

**3.08.030 Duties of City Treasurer.**

(Amended by Ordinance Nos. 158556 and 177246, effective March 7, 2003.) Except as provided in this Chapter, the duties of the City Treasurer shall include the investment of all City funds in accordance with all statutes relating to investment of public funds, and in accordance with the City's current investment policy. The Treasurer may delegate to other City officials any duties or responsibilities assigned to the Treasurer by Charter, Code or statute relating to the foreclosure of delinquent liens.

**3.08.040 Treasurer Authorized to Deposit in Banks.**

(Amended by Ordinance Nos. 158556 and 186746, effective August 6, 2014.) The Treasurer shall have the authority to open or close bank accounts in the name of the City. The Treasurer shall make disposition of City deposits in such a manner as found by the Treasurer to be in the City's best financial interests. City funds in any bank are in the custody of the City Treasurer as required by law. The Treasurer shall be authorized to enter into deposit agreements as may be agreed upon with the bank. Each bank shall be authorized to accept City funds for deposit to any such accounts when tendered by any person without obligation to ascertain that the funds are being deposited in the proper

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account. The City Treasurer shall furnish each bank at which an account is maintained, a written statement naming the person or persons authorized to withdraw funds from such account, declaring the persons named therein are authorized assistants in the Public Finance and Treasury Division and certifying the signatures of the persons so named. Each bank should be authorized to honor withdrawals by the City Treasurer or by the person or persons named in such statement until written notice of cancellation or change is delivered to and received by the bank at which the account affected is maintained. In the event of the termination of services or death of the City Treasurer, the Chief Financial Officer shall make a record showing the time of termination and give notice to the banks maintaining a City account. The new City Treasurer shall be responsible for all monies received and disbursed after such time except that outstanding checks may be paid in due course and charged against the proper bank account. Each new City Treasurer shall promptly verify with each bank in which City funds are deposited and ascertain the exact balance and make sure rectification as may be needed because of outstanding checks. Each new City Treasurer shall have and exercise all of the authority of his/her predecessor and may execute any new banking agreements.

#### **3.08.050 Liability of Treasurer for Deposit of Funds.**

In the event of bank failure or bankruptcy and when deposits have been made as provided herein or authorized by law of the Charter, the Treasurer shall be exempt from all liability for loss of deposits, or bankruptcy or other acts of the bank or bankers to the extent and amount of such deposits.

#### **3.08.060 Council May Require Additional Security from Banks.**

If the Council deems the securities pledged by any bank insufficient and inadequate security for the City deposits with such bank, other or additional securities to be given by such bank shall be requested and require approval by the Council. If such bank fails to furnish such securities promptly, the Treasurer at once shall withdraw all deposits from such bank and such bank shall cease to be a depository of the City funds. To be reinstated as a depository of City funds requires that the bank deposit securities deemed satisfactory by a vote of the Council.

#### **3.08.070 City Officers or Agents to Pay Money to the City Treasurer.**

(Amended by Ordinance No. 186746, effective August 6, 2014.) Any officer or agent of this City or other person who shall receive or have possession of any money belonging to the City shall immediately pay the same to the Treasurer who shall receipt the money. Failure to pay to the Treasurer any money received within 24 hours shall be deemed sufficient cause for removal in the absence of excusable failure.

**CHAPTER 3.10 - OFFICE OF CITY  
ATTORNEY**

(Chapter replaced by Ordinance No. 155956,  
effective June 11, 1984.)

**Sections:**

- 3.10.010 Office of City Attorney.
- 3.10.030 Duties and Responsibilities.
- 3.10.040 Chief Deputy City Attorney.
- 3.10.050 Records.
- 3.10.060 Attorney-Client Relationship.
- 3.10.070 Settlements.
- 3.10.080 Outside Counsel Conflicts of Interest.

**3.10.010 Office of City Attorney.**

(Amended by Ordinance No. 165112, effective February 26, 1992.) The Office of the City Attorney shall consist of the City Attorney and such subordinate employees as the Council may provide. The deputies of the City Attorney shall be appointed by the City Attorney in writing and shall continue in service during the City Attorney's pleasure. In the event of a vacancy in the position of the City Attorney, the deputies shall continue in office with a Chief Deputy serving as acting City Attorney until such time as the Council appoints a new City Attorney.

**3.10.020 General Organization.**

(Repealed by Ordinance No. 165112, effective February 26, 1992.)

**3.10.030 Duties and Responsibilities.**

(Amended by Ordinance Nos. 156711, 165112, 181483 and 189426, effective March 20, 2019.) The City Attorney shall have the following duties:

- A. Appear for, represent, and defend the City, and its boards, commissions, bureaus, officers, employees and persons entitled to representation under the Oregon Tort Claims Act in all appropriate legal forums and matters. However, other than as required by the Tort Claims Act and except as provided in 3.10.030 G.4., the City Attorney shall not represent individuals in their personal capacity and shall not represent individuals who, after investigation by the OMF Risk Management Division, are found by the Bureau to have acted outside the scope of their employment or duties or to have committed malfeasance in office or willful or wanton neglect of duty. If the City Charter specifically authorizes a commission to retain or employ its own special legal counsel, then the City Attorney shall not be responsible for representing such commission on matters assigned by the commission to its special legal counsel;

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- B.** Review and approve as to form all written contracts, bonds, or other legally binding instruments to which the City is a party. It shall be the responsibility of the City officials or employees who prepare such documents to submit the documents to the City Attorney for review;
- C.** Give legal advice and opinions orally and in writing and prepare legal documents and ordinances for the Mayor, any Council member, the City Council, or any board, bureau, committee, commission, or agency of the City;
- D.** Periodically submit to Council reports summarizing the amount, type, and cost of legal services required by the City in the preceding year and highlighting significant legal cases and trends involving the City;
- E.** Seek to ensure that City employees comply with legal and ethical requirements of public employment by providing advice, direction and opinions
- F.** Seek to prevent legal problems for the City by training, directing and educating City employees about legal issues;
- G.** Institute legal proceedings for the City in any court or tribunal on direction by resolution of the Council, as otherwise provided herein. The City Attorney may institute appeals on behalf of the City for enforcement of regulations or license requirements including such payments established by Charter, Code, ordinance, or statute, and for collection of any account receivable, and may appeal in any case in which the opposing side first has appealed, as the City Attorney deems advisable. The City Attorney shall prosecute other appeals on direction by resolution of the Council. The City Attorney may also upon approval of the Commissioner In Charge and for good cause shown:
  - 1.** Seek enforcement of any regulation or license requirement including the payment of any fee, penalty, or interest, established by Charter, Code, ordinance, or statute, and collection of any account receivable and may assert a counterclaim, a cross-claim, or a third-party claim;
  - 2.** File in the appropriate forum the original or duplicate copies of a complaint for interpleader whenever the City shall come into possession of property in which it has no claim and on which multiple claims have been made by other parties;
  - 3.** File briefs and related motions as amicus curiae in any appeal or other proceeding where legal issues are of interest to the City;
  - 4.** Represent City employees in their personal capacity in legal proceedings that have a connection to their City employment and are related to their personal safety, including but not limited to initiating affirmative litigation

on behalf of affected City employees when they petition courts for restraining orders, injunctions, and other protections and remedies;

5. File a notice of appeal to protect the City's legal right to appeal in situations where the City Attorney believes an appeal is advisable and it is not practicable to obtain a Council resolution in the time allowed to perfect an appeal. The City Attorney shall seek Council authorization by resolution to continue the appeal as soon as practicable and shall immediately dismiss any appeal which Council declines to authorize by resolution.

**3.10.040 Chief Deputy City Attorney.**

(Amended by Ordinance No. 165112, effective February 26, 1992.) The position of Chief Deputy City Attorney is hereby created and the City Attorney is authorized, from time to time to appoint one or more deputies to such positions and designate one Chief Deputy to be in charge of the Office in the absence of the City Attorney.

**3.10.050 Records.**

(Amended by Ordinance No. 165112, effective February 26, 1992.) The City Attorney shall have charge and custody of the Office of the City Attorney and of all legal papers pertaining thereto.

**3.10.060 Attorney - Client Relationship.**

(Amended by Ordinance Nos. 165112 and 181483, effective January 18, 2008.)

- A. The relationship between the Office of City Attorney and the City shall be an attorney-client relationship, with the City being entitled to all benefits thereof.
- B. Correspondence between the City Attorney and others in the City and the opinions and advice provided by the City Attorney to the City or to any City department, official, or employee are privileged attorney-client communications.
- C. In suits, actions, or other proceedings in which the City Attorney, with the concurrence of the OMF Risk Management Division, accepts the defense of a City official, employee, or other person pursuant to the requirements of the Oregon Tort Claims Act, the relationship between the Office of the City Attorney, and the official, employee, or other person shall be an attorney-client relationship, with the official, employee, or other person being entitled to all the benefits thereof regarding the subject matter of the suit, action, or proceeding.

**3.10.070 Settlements.**

The City Attorney may settle suits, actions, or proceedings as follows:

- A. As the City Attorney deems advisable, after consultation with the affected bureau, if appropriate, in cases of suits, actions, or proceedings seeking enforcement of any regulation or license requirement including payment of any fee, penalty, or interest,

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established by the Charter, Code, ordinance, or statute, and collection of any account receivable;

- B.** With the written approval of the Commissioner In Charge, in cases of any other suits, actions, or proceedings except for settlements requiring payment by the City in excess of \$5,000; and
- C.** With the approval by ordinance of the Council in cases of suits, actions, or proceedings requiring payment by the City in excess of \$5,000.

**3.10.080 Outside Counsel Conflicts of Interest.**

(Amended by Ordinance No. 165112, effective February 26, 1992.) The City Attorney is authorized to waive on behalf of the City potential conflicts of interest of private legal counsel retained by the City if the City Attorney determines the waiver to be in the City's interest.

**3.10.090 Indemnities Fund.**

(Repealed by Ordinance No. 165112, effective February 26, 1992.)



**CHAPTER 3.12 - BUREAU OF  
TRANSPORTATION**

(Chapter replaced by Ordinance No. 182389,  
effective January 2, 2009.)

**Section:**

3.12.010      Organization.

**3.12.010      Organization.**

The Bureau of Transportation shall be under the direction and control of the Director of Transportation. The Director shall be responsible for the overall coordination and management of the groups of the Bureau of Transportation to assure the goals of the City Council are met and the mission and goals of the Bureau of Transportation are achieved. This includes responsibility for productivity, responsiveness and effectiveness of the services and programs of the Bureau of Transportation. The Bureau of Transportation shall be charged with the responsibility for the finance, operation, maintenance and improvement of the transportation system and shall be made up of groups under the direction and control of the Director, as set forth in this Chapter. The City Engineer shall be an employee within the Bureau of Transportation. Responsibilities and authorities of the City Engineer provided in this Code shall be performed by a Professional Engineer. The Director of Transportation shall have authority to issue administrative rules and regulations in addition to those specified in the Charter and this Code, as are appropriate to provide for the adequate functioning of the Bureau and to carry out the responsibilities under this Section.

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**CHAPTER 3.13 - BUREAU OF  
ENVIRONMENTAL SERVICES**

(Chapter added by Ordinance No. 155385, effective  
December 8, 1983.)

**Sections:**

- 3.13.010 Purpose.
- 3.13.020 Organization.
- 3.13.030 Mission.
- 3.13.040 Administrative Rules and Procedures.
- 3.13.050 Permitting Authority.

**3.13.010 Purpose.**

(Amended by Ordinance Nos. 163823 and 168321, effective December 30, 1994.) The purpose of this Chapter is to describe the organization, and mission of the Bureau of Environmental Services. This Bureau of Environmental Service, created by Ordinance in 1983, is committed to the proper management, protection, and where practicable enhancement of our natural resources.

**3.13.020 Organization.**

(Amended by Ordinance Nos. 168321, 174830 and 185397, effective July 6, 2012.) The Bureau is administered by the Commissioner in charge and led by the Director of Environmental Services. The Director works with Group Managers and their staff in pursuit of the mission. The organizational structure of the Bureau shall be determined by the Director after consultation with the Commissioner in charge. The Bureau of Environmental Services is responsible for design, construction, operation and maintenance of the sanitary and storm water collection and transport systems, and watershed management. The Director shall have authority to issue administrative rules and regulations in addition to those specified in the Charter and this Code, as are appropriate to provide for the adequate functioning of the Bureau and to carry out the responsibilities under this Code.

**3.13.030 Mission.**

(Amended by Ordinance Nos. 168321 and 174830, effective September 22, 2000.) The Bureau of Environmental Services serves the community by protecting public health, water quality and the environment. To achieve this, the Bureau:

- A. Protects, enhances and restores natural waterways; and
- B. Provides sewage and stormwater services to accommodate current and future needs.

**3.13.040 Administrative Rules and Procedures.**

(Added by Ordinance No. 185397, effective July 6, 2012.)

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- A.** The Director of the Bureau of Environmental Services may adopt, amend and repeal rules, policies, procedures, and forms pertaining to matters within the scope of this Code.
- B.** Any adoption, amendment or repeal of a rule pursuant to this Section requires a public review process which includes a minimum 30-day public comment period and the opportunity for a public hearing. Notice shall be given by publication in a newspaper of general circulation not less than 30 days before adoption. Such notice shall include the location at which copies of the full text of the proposed rules may be obtained and the place and time of a proposed public hearing. The Director is only required to hold the public hearing if requested to do so.
- C.** During the public review process, the Director shall hear testimony or receive written comment concerning the proposed rules and prepare a report of findings and recommendations. The Director shall review findings and recommendations, taking into consideration the comments received during the public review process, and shall either adopt, modify or reject proposals. If a substantial modification is made, the Director may provide additional time for the public review process. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the office of the Director and in the Portland Policy Documents repository described in Chapter 1.07.
- D.** Notwithstanding Subsections 3.13.040 B. and C., the Director may adopt an interim rule without prior notice if failure to act promptly would result in a threat to public health and safety or the environment. Any interim rule adopted pursuant to this Paragraph shall be effective for a period of not longer than 180 days.

**3.13.050 Permitting Authority.**

(Added by Ordinance No. 186902, effective December 26, 2014.) The Director of the Bureau of Environmental Services is authorized to develop and require permits, authorizations, inspections, and other forms of review and approval to implement and assure compliance with those sections of this code that are administered by the Bureau of Environmental Services.

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**CHAPTER 3.15 - OFFICE OF MANAGEMENT  
AND FINANCE**

(Chapter replaced by Ordinance No. 189556,  
effective July 12, 2019.)

**Sections:**

- 3.15.010 Purpose.
- 3.15.020 Definitions.
- 3.15.030 Organization.
- 3.15.040 Functions.
- 3.15.050 Powers and Duties of the Chief Administrative Officer.
- 3.15.060 Office of the Chief Administrative Officer.
- 3.15.070 Bureau of Revenue and Financial Services.
- 3.15.080 Bureau of Human Resources.
- 3.15.090 Bureau of Technology Services.

**3.15.010 Purpose.**

The purpose of this Chapter is to describe the organization, functions, duties and responsibilities of the Office of Management and Finance.

**3.15.020 Definitions.**

- A. “Administrative services” means all those functions that provide products, services and support to City employees and programs that in turn provide direct services to the public. These services include, but are not limited to, the following: administrative support; accounting; debt management; treasury management; payroll; grant administration; license; tax and fee collection; policy and program development; risk management; facilities and property management; fleet management; human resources and personnel services including employee training and education; technology services; printing and distribution; and procurement services.
- B. “Communications systems” includes, but is not limited to, citywide radio, video, data communications, microwave, wireless communications and telephone systems and equipment.
- C. “Data grant agreements” are agreements in which the City will grant the use of pertinent Geographical Information Systems (GIS) data to agencies, organizations or individuals (grantees) for research projects or projects performed under contract with the City. Data grant agreements may include direct cost reimbursements to the City.
- D. “Technology systems” includes, but is not limited to, City authorized computer and telecommunications hardware, software, on premises and cloud computing or web-

hosted services and systems that utilize the internet and/or any other communications network.

- E.** “Vehicles and equipment” includes, but is not limited to, motorized mowers, bicycles, motorcycles, electric and hybrid vehicles, sedans, vans, SUVs, light-, medium- and heavy-duty trucks, heavy equipment, trailers and other specialized equipment.

**3.15.030 Organization.**

- A.** The Office of Management and Finance shall be under the direction and control of the Chief Administrative Officer (CAO) and shall include such other employees as the Council may provide. The CAO shall be appointed by the Mayor who shall serve as the Commissioner-in-Charge of the Office of Management and Finance, unless the Council directs otherwise. The CAO shall report to the Mayor or the assigned Commissioner-in-Charge but shall serve for the benefit and interest of the entire Council, including providing information and advice to elected officials.
- B.** The CAO may appoint a Deputy Chief Administrative Officer (DCAO) to assist the CAO with planning, directing, and communicating the activities and operations of the Office of Management and Finance and all its associated bureaus.
- C.** The Office of Management and Finance consists of the Office of the Chief Administrative Officer, the Bureau of Revenue and Financial Services, the Bureau of Human Resources, and the Bureau of Technology Services.

**3.15.040 Functions.**

The Office of Management and Finance shall provide and coordinate administrative service functions of the City in support of the operational needs of City bureaus and shall perform other duties as assigned. Bureaus shall use the services of the Office of Management and Finance unless otherwise authorized by the CAO or directed by the Council.

**3.15.050 Powers and Duties of the Chief Administrative Officer.**

The CAO, or designee, is authorized to:

- A.** Formulate, approve and issue administrative rules, procedures and systems for providing City administrative services.
- B.** Implement and monitor administrative rules and systems for providing administrative services.
- C.** Recommend alternatives to the Council for providing administrative services.
- D.** Determine if any administrative service should be provided by City staff or outside vendors.

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- E.** Advise the Council and provide staff support to citywide projects and oversight committees.
- F.** Determine the duties and reporting relationships for positions responsible for centralized administrative services, including but not limited to human resources, financial services and technology services.
- G.** Provide analysis and recommendations related to City budget proposals to the City Budget Director, Mayor or Commissioner-in-Charge of the Office of Management and Finance, and the Council.
- H.** Appear in legal action in Small Claims Court to assert on behalf of or to defend the City in any Small Claims action for recovery of money, damages or specific personal property, in collaboration and consultation with the City Attorney, including asserting counterclaims, cross-claims, or third party claims to undertake action as allowed under ORS Chapter 46 and may issue writs to execute on Small Claims Court judgments.
- I.** Manage intellectual properties, including but not limited to the Portland Oregon <sup>TM</sup> sign; develop, adopt and maintain an Acceptable Use Policy for licensing of intellectual properties; establish appropriate fee schedule for use of intellectual property; execute intellectual property license agreements upon approval to form by the City Attorney; and protect the City's intellectual property rights through enforcement in consultation with the City Attorney.
- J.** Enter into nondisclosure agreements between the City and any third party to review proprietary, confidential or privileged information held by the City or the third party, including to but not limited to information pertaining to: real estate and business transactions, banking and financial software systems, information technology systems, applications, software or hardware and trade secrets.
- K.** Perform other duties as assigned by the Mayor, the Commissioner-in-Charge of the Office of Management and Finance, or the Council.

**3.15.060 Office of the Chief Administrative Officer.**

(Amended by Ordinance No. 190478, effective June 30, 2021.)

- A.** The Office of the Chief Administrative Officer shall be supervised by the CAO, or designee, who shall have the authority to carry out the duties and functions described in this Section.
- B.** The Office of the Chief Administrative Officer shall provide asset management, policy development, communications, specific project management services, budget and financial services and other services or responsibilities the Council or CAO may assign.

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- C. The Office of the Chief Administrative Officer is responsible for the following:
1. Acquire, manage and maintain all City owned or leased vehicles and equipment, except certain identified Portland Fire & Rescue vehicles and equipment.
  2. Execute real property agreements including, but not limited to, easements, permits, licenses and leases, and amendments or renewals of such real property agreements.
  3. Oversee operations, maintenance, management, planning, capital improvement and acquisition for City Property, including but not limited to:
    - a. Real properties over which the Office of Management and Finance has assigned or delegated responsibilities;
    - b. Leasehold premises used by the City and managed by the Office of Management and Finance;
    - c. Real property which the Office of Management and Finance manages under intra-bureau, interagency or intergovernmental agreement(s); and,
    - d. City owned real property not specifically assigned to another bureau for property management.
  4. Provide facilities management services for real properties under the management of other bureaus upon intra-bureau agreements, including but not limited to:
    - a. Property management services for the purchase, inventory, sale, replacement and rental of real property;
    - b. Facilities maintenance services, including but not limited to: maintenance and repair of buildings and their related equipment; and the administration of janitorial, maintenance and security contracts; and,
    - c. Professional and technical services, including but not limited to architectural design, engineering, facilities and space planning and project management of capital projects.
  5. Enforce Rules of Conduct and City Property Exclusions, in accordance with Chapter 3.18

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6. Prioritize and undertake cleanup of unauthorized camping at City owned or managed real property without obtaining authorization from the bureau to which the property is assigned and at other governmental properties upon intergovernmental agreement. The Office of Management and Finance may consult with impacted public and private property owners. This grant of authority is in addition to the property managing bureau's authority to undertake property management for its assigned property but the bureau will coordinate with Office of Management and Finance before the removal of personal belongings.
7. Provide planning, policy development, project management and implementation and fund management for citywide or intergovernmental programs or initiatives.
8. Provide policy development, planning, communications, specific project management services, administrative support, budget and financial services for all bureaus and divisions in the Office of Management and Finance.
9. Coordinate advance payments for building rentals. In cases where building space has been or shall be rented by the City on lease or on a month-to-month basis and the owner requires advance payment of rentals or a security deposit, the City Controller is hereby is authorized to examine and allow such advance payment of rentals or security deposit, provided that advance payments of rentals shall be for a period of not to exceed 31 days.
10. Dispose of useable surplus personal property through donation to charitable organizations certified under the Internal Revenue Code Section 501(c)(3), where the property will be individually or in the aggregate less than \$5,000, and execute donation agreements with recipient charitable organizations upon approval to form by the City Attorney.
11. Dispose of surplus property deemed unusable, inoperable or not reasonably repairable, hazardous, or is of insufficient value to warrant transfer, sale, or donation.

**3.15.070 Bureau of Revenue and Financial Services.**

- A. The Bureau of Revenue and Financial Services provides centralized financial services, revenue and tax collection, business regulation, procurement, financial reporting and compliance, risk management, pension oversight and other services or responsibilities the Council or the CAO may assign.
- B. The Bureau of Revenue and Financial Services (BRFS) shall be supervised by a Director, who shall also serve as the Chief Financial Officer (CFO) of the City. The



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CFO shall report to the CAO but shall serve for the benefit of the entire Council including providing information and advice to elected officials.

- C.** The CFO shall be responsible for the overall financial planning, coordination, management and fiscal sustainability of the City. The CFO, or designee, shall have the authority to:
- 1.** Formulate, approve and issue financial policies, rules and procedures.
  - 2.** Oversee revenue development and collection activities, including but not limited to:
    - a.** Managing all billing and collection software used by the BRFS and other enterprise-wide revenue-collection software systems as applicable.
    - b.** Managing, enforcing, collecting and auditing business taxes, transient lodging taxes, Arts Education and Access Income Tax and other taxes as assigned.
    - c.** Managing, enforcing and auditing regulatory programs assigned by the Council, including the authority to enact administrative rules and regulations.
    - d.** Managing lien assessments, collections and foreclosure.
    - e.** Managing funds as assigned.
  - 3.** Manage cash flow planning and liquidity.
  - 4.** Manage the City's debt program and provide expert advice to City bureaus and officers regarding capital financing and the issuance of debt.
  - 5.** Establish internal control systems to preserve City assets and report accurate financial results.
  - 6.** Enter into nondisclosure agreements between the City and third parties to review confidential information, including trade secrets or other information designated as proprietary or privileged, related to banking and financial systems, applications, software or hardware, that may be under consideration for use by the City.
  - 7.** Manage, administer, and enforce such responsibilities as are assigned to the Office for Community Technology by City Code or the Council.

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8. Perform such other duties as may be required by ordinance or by the Council, or which are necessary to implement the purposes of this Section.
- D.** A City Controller, who reports to the CFO, shall have the authority to:
1. Establish, maintain and enforce citywide accounting policies, practices, rules and regulations.
  2. Authorize reports that disclose the fiscal condition of the City to external users including the Comprehensive Annual Financial Report (CAFR), the Popular Annual Financial Report (PAFR), the Single Audit Report and other reports required by federal, state and local regulations.
  3. Interpret accounting and financial reporting policies and practices, including pronouncements of the Governmental Accounting Standards Board (GASB).
  4. Conduct financial and compliance audits and other tests to determine compliance with citywide accounting and financial reporting policies and current professional standards and adequacy of internal controls over accounting transactions, the cost of which shall be paid by the bureau being audited.
  5. Manage and oversee all incoming federal, state and private grants, and outgoing Special Appropriations grants and contracts.
- E.** A City Treasurer, who reports to the CFO, shall have all those authorities and responsibilities described in Chapters 3.08 and 5.30. The City Treasurer shall be responsible for providing centralized banking, merchant and investment services to all City bureaus, and ensuring compliance with City policies, industry best practices, and federal and state laws and regulations, including Payment Card Industry Data Security Standards.
- F.** A Chief Procurement Officer, who reports to the CFO, shall have all those authorities and responsibilities described in Chapters 5.33, 5.34 and 5.68 and shall manage and oversee all procurement, contractor services, procurement authority, and policies and rules for procurements, including verification of vendor compliance with City insurance requirements.
- G.** A Risk Manager, who reports to the CFO, shall have the authorities and responsibilities described in Chapter 3.54 and as described:
1. Administer, coordinate and control all activities related to commercial and self-insurance including but not limited to, property and casualty insurance, workers' compensation insurance, liability insurance and the City's right to subrogation on these insurance programs. These activities shall include:

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- a. Obtaining a public liability insurance policy or providing the necessary funding through a self-insurance program protecting the City, its officer, agents and employees with limits of not less than the maximum statutory limits of liability imposed on municipalities of the State of Oregon.
  - b. Administering workers' compensation insurance in accordance with the laws for the State of Oregon and on a self-insurance basis.
  - c. Maintaining records relating to commercial and self-insurance losses or claims filed against the City and executing any claim or proof of loss for damage to City property.
2. Monitor and coordinate a citywide loss prevention and control program to minimize potential property, liability, fidelity and personnel losses.
3. Evaluate and approve applications for self-insurance programs in lieu of commercial insurance requirements in any City agreement, including but not limited to contracts and permits.
4. Act on behalf of the City on all matters related to workers' compensation, including but not limited to the authority to:
  - a. accept, deny or defer claims;
  - b. authorize payments of benefits in the amounts required by law relating to claims filed with the City; and,
  - c. enter into settlements of claims whether it be on a disputed claims disposition agreement or disputed claim settlement basis, subject to the provisions of the City Charter governing settlements.
5. Act on behalf of the City and in the investigation, evaluation and settlement of property damage, general liability, bodily injury, personal injury, employment practices and other claims brought against the City under the Oregon Tort Claims Act and/or under state and federal civil rights laws, including complaints of discrimination filed with the Civil Rights Division of the Oregon Bureau of Labor and Industries, or the Equal Employment Opportunity Commission, subject to the provisions of the City Charter governing settlements. In doing this work, the Risk Manager and designees shall be agents of the City Attorney acting on behalf of the City. Settlement of claims and court actions alleging employment discrimination or violations of employees' civil rights shall be subject to concurrence of the Bureau of Human Resources Director.

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6. Make settlements in an amount not exceeding \$5,000, subject to the provisions of the City Charter governing settlements.
7. Investigate and enter into settlements on fair and moral claims governed by Section 1-107 of the City Charter.

**3.15.080 Bureau of Human Resources.**

- A. The Bureau of Human Resources shall be supervised by a Director who shall report to the CAO. The responsibilities of the Bureau of Human Resources shall include coordination and control of the administrative and technical activities relating to maintenance of a comprehensive human resources system for the City, including labor relations and negotiations, promoting diversity and equity in outreach employment and recruitment services, classification and compensation, training and workforce development, human resources systems, payroll, deferred compensation, and employee benefits and wellness. The Bureau of Human Resources shall be responsible for the health benefit plan administration and funding including the Health Insurance Fund.
- B. The Human Resources Director shall formulate, administer and monitor administrative rules approved by the Council, or the CAO, including provisions for:
  1. Recruitment, examination, certification and appointment on the basis of applicants' knowledge, skills and abilities.
  2. Classification and compensation.
  3. Employee behavior and expectations.
  4. Disciplinary guidelines with notice to employees of prohibited practices.
  5. Employee training and development.
- C. In accordance with Oregon law, the Human Resources Director or designee, on behalf of the Council, may enter into agreements with labor organizations, recognizing their exclusive representation of specified classifications within City service.
- D. Dispute Resolution.
  1. The Human Resources Director or designee(s) is the official interpreter for the City pertaining to its collective bargaining agreements and any other written compensation and benefits plans and personnel policies established by the Council.

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2. The Commissioner-in-Charge of a bureau shall retain the right to hear individual grievances and or complaints on a case by case basis. In settling such grievances and or complaints, the Commissioner-in-Charge shall do so with the advice and consent of the City Attorney and the Human Resources Director.
3. If the Commissioner-in-Charge of a bureau does not retain jurisdiction of a grievance and or a complaint within one week of receiving the issues, then the Human Resources Director shall automatically have jurisdiction to settle the issue.
4. Provision for resolution of disputes is as follows:
  - a. Within 1 day following the filing of a written grievance under a collective bargaining agreement or complaint under other written personnel policy adopted by the Council, the bureau or department recipient of the grievance or complaint shall provide a copy to the Human Resources Director of the written grievance or other complaint document. During the investigation of grievances and complaints, the Human Resources Director or designee(s) shall be an agent of the Office of the City Attorney for purposes of representing the City.
  - b. Where the claim is for wages or other monetary benefit not exceeding \$5,000 per claimant, the supervisor, division manager or bureau director, with the approval of the Commissioner-in-Charge of the bureau and of the Human Resources Director, may accept or adjust the claim in settlement on behalf of the City, where settlement is deemed prudent and appropriate, provided that:
    - (1) The Human Resources Director authorizes the settlement in writing and gives written notice to the payroll division or to the benefits program manager involved to draw and issue a check not exceeding \$5,000 per claim for the settlement expense, charged to the appropriate center code, account number or fund;
    - (2) Payments which are an exception to Section 5.08.020 of the Code, which requires payroll checks to be drawn only for services rendered, shall be made only when the Human Resources Director determines such payment to be in the best interests of the City and the Office of the City Attorney approves. This Section shall be narrowly applied.



5. Long-Term Disability
6. Employee Assistance Program; and
7. Deferred Compensation Program

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

**3.15.090 Bureau of Technology Services.**

- A. The Bureau of Technology Services shall be supervised by the Chief Technology Officer (CTO) of the City, who shall report to the CAO. The Bureau of Technology Services shall manage, establish policies and standards, and provide technical support for all City-owned technology systems, communications systems, and all end user technology support services, including Help Desk and Desktop Support services, and citywide Geographical Information Systems, except those specifically exempted by the CTO. The Bureau of Technology Services shall additionally provide citywide printing and distribution management services.
- B. The Bureau of Technology Services:
  1. Provides citywide technology strategic planning and consulting services, including project scoping, budget preparation and analysis, system planning and procurement, security analysis, resource allocation and project management for technology projects.
  2. Designs, implements and manages all technology hardware and software, including on-premises or hosted system and cyber security measures.
  3. Designs, implements and manages all citywide communications systems and applications, including the Integrated Regional Network (IRNE).
  4. Provides all Internet and Intranet services to City bureaus, offices, boards and commissions and manages the City's official website, including managing and authorizing all City domain name registrations and renewals.
  5. In cooperation with BRFS, reviews and approves the purchase of all technology software, hardware, on premise or hosted systems and professional technology consulting services.
  6. Provides technical expertise and information for City technology projects.

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7. Provides all telephone services to City bureaus; coordinates with telephone vendors; orders new facilities and equipment for city-owned or leased systems; plan telephone systems; and resolve all telephone problems.
  8. Provides rapid, convenient reproduction, distribution and mail services and provide advice and consultation on these services.
  9. Reviews and approves requests for the lease or purchase of office copiers/printers, in compliance with procurement requirements in Chapter 5.33.
  10. Manages the processing of U.S. mail and pickup and delivery of interoffice mail, packages and equipment.
  11. Manages technology systems used to standardize and accomplish the City's business affairs and providing citywide services in, but not limited to, the areas of fiscal services, procurement and human resources services.
- C. The CTO, or designee, shall have specific authority to:
1. Enter into nondisclosure agreements between the City and third parties to review confidential information, including trade secrets and/or information designated as proprietary or privileged, related to systems, applications, software or hardware that may be considered for use by the City.
  2. Enter into data grant agreements in consultation with the bureau that is the custodian of record.



**CHAPTER 3.16 - CITY BUDGET OFFICE**

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

**Sections:**

- 3.16.010      Organization.
- 3.16.020      Authority of Council.

**3.16.010      Organization.**

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

- A.**      Coordinating development and administration of the City's budget, including capital budgeting and the development of budget recommendations for all City bureaus and funds;
- B.**      Financial planning and operational review of the City's utilities, including administration and maintenance of an independent utility review function that provides City Council with an annual review of utility rates and economic impacts;
- C.**      Long range financial forecasting for the City's funds, including oversight of the General Fund;
- D.**      Preparing General Fund Five-Year Forecasts at least twice each fiscal year. The General Fund Five-Year Forecasts shall be released and made publicly available on or before December 31st and on or before April 30th;
- E.**      Collaborating with the Office of Management and Finance on the development of financial forecasts and providing forecasting information to the Chief Administrative Officer when requested;
- F.**      Monitoring expenditures and revenues for the City and all Bureaus and providing this information to Commissioners and the Chief Administrative Officer when requested;
- G.**      Developing and analyzing financial policy and performance measurement systems and providing this information to Commissioners and the Chief Administrative Officer when requested;
- H.**      Providing Council with financial information that informs the City's deliberations on collective bargaining agreements, and assisting the Bureau of Human Resources with the costing of collective bargaining agreements;

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- I. Performing other duties as assigned.

**3.16.020 Authority of Council.**

The City Budget Director shall be appointed by the Commissioner in Charge of the City Budget Office, but shall serve the entire Council, including providing information and advice and making available for inspection the books and records of the City Budget Office to any Elected Official making a request for the same as soon as practical.

**CHAPTER 3.18 - RULES OF CONDUCT FOR  
CITY PROPERTY**

(Chapter added by Ordinance No. 188280, effective  
April 14, 2017.)

**Sections:**

- 3.18.010 Designation of Persons-in-Charge.
- 3.18.020 Rules of Conduct at City Property.
- 3.18.030 City Property Exclusions.

**3.18.010 Designation of Persons-in-Charge.**

(Amended by Ordinance No. 189556, effective July 12, 2019.)

- A.** For purposes of ordering persons to leave City Property, the following are Persons-in-Charge:
  - 1.** Any peace officer as defined by Oregon law and any reserve officer of the Portland Police Bureau.
  - 2.** Any person providing security services in any City Property pursuant to any contract with the City, or with any person, firm or corporation managing a City Property on the City's behalf.
  - 3.** Bureau property or facility manager, or designee.
  - 4.** With respect to facility or space assigned to a City bureau or City office, the director or manager of the City bureau or City office, or designee.
  - 5.** The Chief Administrative Officer or the Deputy Chief Administrative Officer of the Office of Management and Finance, or any person they specifically designate in writing.
  - 6.** Any person with exclusion authority under the Code.
  - 7.** The Mayor, a Commissioner or Auditor, or designee of these elected officials.
- B.** Delegation to a designee shall be made in writing. Any person so designated shall be a Person-in-Charge as that term is defined in ORS 164.205(5) until the delegation is terminated or the designated person ceases to be an employee or officer of the City of Portland. Copies of delegation will be provided to the City Attorney's Office and to the bureau property or facility manager.

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- C. Upon request, the City shall provide a copy of the Person-in-Charge designation or delegation list to the District Attorneys of Multnomah, Clackamas and Washington counties.
- D. For purposes of this Section, City Property shall include any real property either owned by the City or in which the City has a property interest or property management responsibility.
- E. For purposes of ordering persons to leave a public meeting of a City board or commission, the following are Persons-in-Charge:
  - 1. The presiding officer of the public meeting of a City board or commission.
  - 2. Any person providing security services at the public meeting of a City board or commission.
  - 3. Any person designated as a Person-in-Charge in Subsection 3.18.010 A.
- F. The authority granted to a Person-in-Charge by this Chapter are in addition to, and not in lieu of, any other authority granted under this Code.

**3.18.020 Rules of Conduct at City Property.**

(Corrected under authority of PCC Section 1.01.035 on June 2, 2017.)

- A. To maintain an environment that promotes orderly administrative and business operations, and to take reasonable and prudent actions to protect the health, welfare and safety of all persons at City Property, the Rules of Conduct in this Section apply and are to be enforced at all City Property except where specific rules of conduct or prohibitions have been adopted for designated real property the City owns or has a property interest or property management responsibilities.
- B. The Rules of Conduct for City Property are as follows:
  - 1. No person shall engage in any activity that would constitute a violation of federal, state or local law or regulation.
  - 2. No person may deface, damage or destroy City Property or City-owned personal property.
  - 3. No person shall enter, attempt to enter or remain in any areas of City Property designated as secured or restricted, or closed to public access.
  - 4. No person shall engage in activity that disrupts or interferes with: the normal operation or administration of City business at City Property; lawful use by City employees and authorized users at City Property; or City permitted activities.

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5. No person shall refuse or fail to obey any reasonable direction of a Person-in-Charge of a City Property. A direction of a Person-in-Charge is reasonable: if it directs a person to obey or to cease a violation of any law or regulation; if it is otherwise reasonably related to the protection of the health, welfare or safety of the person or any other person at the City Property, or to the prevention of damage to property; or if it is reasonably necessary to preserve the peace or to prevent the disruption of City operations or permitted activities, including dangerous or threatening behavior as defined in the Code.
6. No person shall possess any object specifically designed for and presently capable of causing, or carried with the intent to threaten or cause, bodily harm to another. Objects prohibited under this Paragraph 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 hand coverings, swords, straight razors, tear gas, tear gas weapon, mace, pepper mace or similar deleterious agent, saps, sap gloves, hatchets or axes. The prohibitions of this Paragraph do not apply to handguns lawfully carried by persons exempt from local regulation under ORS 166.173. The prohibitions of this Paragraph do not apply to any thing possessed or used to carry out actions authorized by any contract or permit at the City Property.
7. No person shall smoke or carry any lighted smoking instrument at City Property in violation of Chapter 8.65. Smoking instrument additionally includes inhalant delivery system that delivers nicotine in the form of vapor or aerosol, and electronic cigarette, personal vaporizer, or electronic nicotine delivery system. Smoking additionally includes inhaling or exhaling from a smoking instrument.
8. No person shall make use of facility materials, equipment, furniture, or fixtures of a City Property in a manner inconsistent with their customary or designated uses, or in a manner likely to cause property damage or personal injury to the actor or others.
9. No person shall interfere or obstruct free passage of City employees or authorized visitors in or on City Property, including but not limited to placing objects that impede free passage.
10. No person shall use City Property for unauthorized storage of personal property or leave personal property unattended.

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- 11.** No person shall make or continue a noise disturbance as defined under Chapter 18.04, or operate sound producing device or sound producing equipment except as permitted by the property manager of the City Property. Bullhorns and megaphones are not permitted in the interior of any building on City Property, or within the loggia or portico of any structure on City Property, except as permitted by the property manager for the City Property.
- 12.** No person shall sell, distribute or deliver any alcoholic beverage on City Property, except as permitted by the property manager for the City Property.
- 13.** No person shall sell, distribute or deliver any controlled substances on City Property. This does not prohibit a person from providing caretaking functions or assisting another in taking legally prescribed medication. Controlled substance shall have the meaning provided in Chapter 475 of the Oregon Revised Statutes.
- 14.** No person may bring animals onto City Property, or leave animals tethered or unattended at City Property, except as permitted by the property manager for the City Property. This does not preclude entry by service animals defined under the Americans with Disabilities Act while performing services or task the animals are trained to do, animals employed in official performance of police or rescue activities, or animals authorized for entry by the property manager for the City Property.
- 15.** No person shall solicit for or conduct business at City Property except as permitted by the property manager for the City Property.
- 16.** No person shall use any wheeled devices, including but not limited to unicycles, bicycles, skateboards, roller skates, motorized or non-motorized scooters, inside the property boundary of City Property. All persons must dismount at City Property boundary. No bicycles and motorized wheel devices are allowed in the interior of any building on City Property except as permitted by the property manager of the City Property. The prohibition in this Paragraph does not apply to persons with mobility devices for mobility disability or medical purposes, child strollers or baby carriages.
- 17.** No person shall use City Property for housing or camping except as permitted by the property manager for the City Property and provided such use conforms with land use, zoning, building and other property regulations.
- 18.** No person shall misuse or damage the City's technology systems or network, including its telecommunication equipment and data.

- 19.** No person shall enter, attempt to enter or remain in any areas of City Property for purposes other than to conduct legitimate business with City offices or tenants located at City Property, to enjoy the publicly accessible amenities at a City Property when the City Property is open to the public, or to lawfully assemble for social or public interaction at portions of City Property specifically designated for such assembly. The director of the bureau with property management responsibility for the City Property may adopt space use policy to manage conditions for property use including but not limited to establishing a reservation protocol, priority regarding uses and users, hours of use, and fees for use.
- C.** The director of the bureau with property management responsibility over a City Property, or designee, is authorized to adopt additional rules of conduct for any specified City Property managed by the bureau. The proposed additional rules of conduct shall be posted at the City Property where such proposed rules would apply, and shall be deemed part of the Rules of Conduct for the City Property. The proposed rules shall be final and effective no sooner than seven days after posting. Upon approval of the Commissioner in Charge, a bureau director may adopt interim additional rules of conduct without prior notice upon a finding that failure to act promptly will result in prejudice to the City's interest. Interim additional rules of conduct are final and effective upon posting at the City Property affected for a period not longer than 30 days. The bureau director shall submit final rules to the Auditor for filing in the Portland Policy Documents repository within two business days after the rules become effective.

**3.18.030 City Property Exclusions.**

- A.** The exclusion procedures in this Section shall be used for City Property subject to the Rules of Conduct in Section 3.18.020. If a person violates any Rule of Conduct at City Property described in Section 3.18.020 while in or upon City Property, any Person-in-Charge may eject and direct the person to leave the City Property for a period of 24 hours. In addition, the director of the bureau assigned property management responsibility for the City Property where the violation occurred, or designee, may issue an exclusion for any period of time up to 1 year from City Property.
- B.** Notwithstanding this Section, if public meetings of the City Council, or of City Boards and Commissions are held in a City Property, ejection and exclusion from the public meeting must comply with Section 3.02.060.
- C.** In determining the appropriate length of exclusion under this Section, the person issuing the exclusion shall consider: the seriousness of the conduct that led to the exclusion; prior instances of violations of the Rules of Conduct at City Property by the person to be excluded; the availability of alternative means for the person to

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conduct business with City officials and offices; and any other facts or circumstances that the person issuing the exclusion deems relevant.

- D.** The notice of exclusion shall be in writing, given to the person excluded and signed by the Person-in-Charge. It shall specify the dates and places of exclusion. It shall contain a warning of consequences for failure to comply with the notice of exclusion and information concerning the right to appeal the exclusion.
- E.** A person receiving a notice of exclusion may appeal, in writing, to the Code Hearings Officer in accordance with the provisions of Title 22 of the Code to have the notice of exclusion rescinded. Notwithstanding the provisions of Title 22, the appeal to the Code Hearings Officer shall be filed within 5 days of issuance of the notice of exclusion, unless extended by the Code Hearings Officer for good cause shown. The sworn statement of the Person-in-Charge who issued the notice of exclusion shall be used as evidence on appeal, unless the appellant requests, in writing, the presence of the Person-in-Charge at the appeal hearing.
- F.** A person receiving a notice of exclusion may request a limited modification from the Person-in-Charge issuing the exclusion for the purpose of attending a City Council or other public meeting or conducting specific business with a City official or office located at a City Property identified in the exclusion notice. The request must be in writing and must identify good cause for the desired modification. The Person-in-Charge may deny the request if the business with the City official or office may be conducted through alternate means or deferred until the exclusion period ends, or may deny the request on any reasonable basis. If modification is allowed, the Person-in-Charge may impose reasonable conditions for the limited entry, and may include a requirement that the person arrange with the Person-in-Charge to be escorted into and out of the location where the meeting is to be held or the business is to be conducted.



**CHAPTER 3.20 - BUREAU OF POLICE**

**Sections:**

- 3.20.010 General Organization.
- 3.20.020 Council to Organize and Make Rules and Regulations.
- 3.20.030 Authority of Chief of Police.
- 3.20.040 Duties of the Chief of Police
- 3.20.050 Subordinate Officers.
- 3.20.070 Fees to be Paid Over to Treasurer.
- 3.20.080 Policemen Receiving Gifts and Employing Attorneys - Penalty for Violation.
- 3.20.110 Duties of Police Force.
- 3.20.120 Council in Emergency to Appoint Temporary Policemen.
- 3.20.130 Record of Daily Arrests.
- 3.20.140 Police Review Board.
- 3.20.150 Fingerprints, Photographs and Records of Identification.
- 3.20.160 Police Chief to Make Rules and Regulations.
- 3.20.170 Uniforms.
- 3.20.180 Appointment and Removal of Police Reserves
- 3.20.190 Application, Oath of Office, Compensation and Equipment of Police Reserves.
- 3.20.200 Membership Card and Star of Police Reserves.
- 3.20.210 Police Reserves Exempt from Civil Service.
- 3.20.230 Medical Examinations.
- 3.20.240 Membership.
- 3.20.360 Fees for Report on Police Records.
- 3.20.370 Accountability and Disposition of Fees.

**3.20.010 General Organization.**

(Amended by Ordinance Nos. 136814, 138453 and 159113, effective October 23, 1986.)  
The Bureau of Police shall consist of the Chief of Police and such other employees as the Council may provide. The Bureau shall be responsible for the enforcement of law and order. The Chief of Police shall be the Commanding Officer of the police force and shall direct the police work of the City. The Chief of Police shall be directly responsible to the Commissioner In Charge for the proper functioning of the Bureau. For administrative purposes the Bureau shall be made up of the following branches, each of which shall be commanded by a Deputy Chief and have personnel and such duties as may be assigned by the Chief of Police, subject to the approval of the Commissioner In Charge.

- A. Operations Branch;
- B. Investigations Branch;
- C. Operations Support Branch;
- D. Administrative Support Branch.

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The Deputy Chiefs serve under the command of the Chief.

**3.20.020 Council to Organize and Make Rules and Regulations.**

The Bureau of Police of the City shall be organized by the Council and the members appointed as provided by the Charter, subject to the civil service rules of the Charter. To that end the Council may make all necessary or convenient rules and regulations for the organization and conduct of the police force, for the care and management of the City prison, for receiving and hearing complaints against any member of the force, for the removal or suspension of any member of the force, and for the forfeiture of all or any portion of the wages that may be due any member of such force on account of misconduct or negligence in the discharge of his duties; all the powers of the City connected with and incident to the appointment, discipline, and government of its police shall be vested in the Council, except as otherwise provided by Charter.

**3.20.030 Authority of Chief of Police.**

The Chief of Police, after having taken the oath of office, shall thereafter, under the direction of the Commissioner of Finance and Administration, have command and control of the police force of the City.

**3.20.040 Duties of the Chief of Police.**

(Amended by Ordinance No. 138453; effective July 27, 1974.) The Chief of Police is a peace officer and must execute all processes directed to him by any magistrate of this State in criminal matters. He may make arrests for breach of peace or commission of crime within the limits of the City with or without a warrant as peace officers do under the laws of this State. He must exercise a vigilant control over the peace and quiet of the City. He shall exercise such additional powers as may be conferred upon him by the ordinances of the City to enable him to carry out the objects and purposes of this Charter.

**3.20.050 Subordinate Officers.**

(Amended by Ordinance Nos. 136814, 138453 and 159113, effective October 23, 1986.) The Deputy Chiefs, Captains and other ranks or grades of police within the Bureau of Police shall possess like power and authority as the Chief of Police with respect to peace officer powers, except as herein provided. The Chief of Police shall have control over the Deputy Chiefs, Captains and all other employees of the Bureau of Police when they are on duty, and shall see that the City ordinances and rules, orders and regulations for the government of the police force are observed and enforced. He/she shall have power to recommend for suspension to the Commissioner In Charge any subordinate officer, member or employee for a violation of the same as prescribed by the Civil Service rules.

**3.20.070 Fees to Be Paid over to Treasurer.**

The Chief of Police or any other officer of the police force, when acting under or enforcing any law or statute other than a City ordinance, may collect and receive the same fees and compensation as are allowed to a constable for like services, and if collected he shall pay the same over to the City Treasurer, as provided in the case of fees which may be received

by the municipal judge; but no fees shall be taxed against Multnomah County for services rendered by either Chief of Police or municipal judge.

**3.20.080      Policemen Receiving Gifts and Employing Attorneys -Penalty for Violation.**

No member of the police force shall for his own benefit, under any pretense whatever, receive or share in any present, fee, gift or emolument for public service other than the regular salary and pay, except by the consent of the Council and Chief of Police, publicly given. Nor shall any member share in or receive any gift, fee, or reward from any person who may become bail for any arrested, accused, or convicted person who may become surety for any such, on appeal from or review of the judgment or decision of any court or magistrate, or any fee, gift, or reward in any case from an attorney at law who may prosecute or defend any person arrested or prosecuted for any offense in Multnomah County. Nor shall any member, directly or indirectly, interest himself or interfere in any manner whatever in the employment of any attorney to aid in the defense of any person arrested or accused. For any violation of either of the foregoing provisions the person so offending shall be immediately removed from the police force.

Upon complaint of any person alleging a violation of this Section the Council shall summon the officer accused before it and shall hold a summary hearing with power to subpoena witnesses and to compel the production of all necessary evidence. If it finds that a violation of this Section has been committed by such officer he shall immediately be dismissed from the force and shall be ineligible for reappointment.

**3.20.110      Duties of Police Force.**

The police force of the City shall at all times of the day and night within the boundaries of the City preserve the public peace, prevent crime, arrest offenders, protect rights of persons and property, guard the public health, preserve order, remove nuisances existing in streets, roads, public places, and highways, report all leaks and other defects in water pipes and sewers, and street lights not burning to the proper authorities, provide a proper force at every fire in order that thereby the firemen and property may be protected, protect strangers and travelers at the steamboat and ship landings and railroad stations, and generally obey and enforce all ordinances of the City Council and criminal laws of the State and of the United States.

**3.20.120      Council in Emergency to Appoint Temporary Policemen.**

The Council in case of any mob, riot, pestilence, or on days of public demonstration may appoint such temporary policemen as it may deem necessary, who shall have all the powers and perform all the duties of regular policemen. Such appointments shall not continue beyond the emergency.

**3.20.130      Record of Daily Arrests.**

The Bureau of Police shall keep a daily arrest docket and a municipal court transcript in substantially the following form:

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POLICE ARREST DOCKET AND MUNICIPAL COURT TRANSCRIPT City of Portland, Oregon DEPARTMENT OF FINANCE AND ADMINISTRATION Bureau of Police						
<u>Name of Defendant</u>	<u>Address of Defendant</u>	<u>Arresting Officer</u>	<u>Complainant</u>	<u>Charge</u>	<u>Where</u>	<u>Age</u>
<u>Nativity</u>	<u>Occupation</u>	<u>Bail</u>	<u>Plea</u>	<u>Fine</u>	<u>Days</u>	<u>Remarks</u>

The arrest docket may be printed in any size as may be determined by the Chief of Police and shall be a part of the original record of the Bureau of Police and shall be preserved and kept in the custody of the Bureau of Police.

**3.20.140 Police Review Board.**

(Replaced by Ordinance No. 183657; Amended by Ordinance Nos. 183995, 186416, 189159, 189292, 189673 and 190431, effective June 2, 2021.)

**A.** Purpose. The Police Review Board (“Board”) is an advisory body to the Chief of Police (“Chief”). The Review Board will make recommendations as to findings and proposed officer discipline to the Chief of Police.

**B.** Powers of the Board:

**1.** Review incidents and investigations. Except as provided in Code Section 3.20.140 J., the Board shall review incidents and investigated complaints of alleged misconduct by non-probationary sworn officers (“officers”) who are employed by the Portland Police Bureau (“Bureau”) in the following cases:

**a.** The supervising Assistant Chief, the Director of the Independent Police Review Division of the Auditor (“IPR”) or the Captain of the Internal Affairs Division of the Bureau (“IAD”) controverts the findings or proposed discipline of the Reporting Unit (“RU”) manager pursuant to Code Section 3.21.120.

**b.** Investigations resulting in a recommended sustained finding and the recommended discipline is suspension without pay or greater.

**c.** The following incidents involving use of force:

**(1)** All officer involved shootings.

**(2)** Physical injury caused by an officer that requires hospitalization.

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- (3) All in custody deaths.
          - (4) Any use of force where the recommended finding is “out of policy”.
          - (5) Any other use of force case referred to the Board pursuant to Code Subsection 3.20.140 B.1.a. or Code Subsection 3.20.140 B.1.e.
        - d. All investigations regarding alleged violations of Human Resources Administrative Rules regarding complaints of discrimination resulting in a recommended sustained finding.
        - e. Discretionary cases referred by the Chief, Branch Chief, or the IPR Director.
- 2. Probationary sworn officers. The Board shall review incidents and investigated complaints of alleged misconduct by Portland Police Bureau probationary officers when referred by the Chief, Branch Chief or the IPR Director. However, nothing in this section prohibits the Bureau from terminating the employment of a probationary officer without following the procedures of this section.
- 3. Recommendations to Chief. The Board shall make recommendations to the Chief regarding findings and discipline. The Board may make recommendations regarding the adequacy and completeness of an investigation. The Board may also make policy or training recommendations to the Chief. The Board shall make recommendations as to discipline based on discipline guidelines. The guidelines shall be developed by the Bureau in consultation with IPR
- 4. On September 1, 2010, the Board shall replace the Use of Force and Performance Review Boards set forth in the Bureau’s 2009 Manual of Policy and Procedure. Before September 1, 2010, the Use of Force and Performance Review Board shall review incidents and investigated cases pursuant to the existing Bureau directives.

**C. Composition of Board**

- 1. The Board shall be composed of five voting members and eight advisory members. All Board members will be advised of every case presented to the Board. A quorum of four Voting Members, including the Citizen member and the RU Manager or designee, and four Advisory members is required to be present to make recommendations to the Chief.

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- a.** Voting members
  - (1)** One citizen member from a pool of citizen volunteers recommended by the Auditor and confirmed by the City Council.
    - (a)** Citizens shall be appointed for a term of no more than three years. Citizens may serve two full terms plus the remainder of any unexpired vacancy they may be appointed to fill.
    - (b)** All citizen members must meet at least the following qualifications to participate on the Police Review Board, except that requirements (ii) and (iv) below may be delayed and citizen members may still participate on the Police Review Board during a State of Emergency declared by the President of the United States or the Governor of the State of Oregon or the Mayor or Council of the City of Portland, and requirements (ii) and (iv) shall be met as soon as reasonably practicable under the circumstances of the State of Emergency:
      - (i)** Pass a background check performed by the Bureau.
      - (ii)** Participate in Bureau training to become familiar with police training and policies.
      - (iii)** Sign a confidentiality agreement.
      - (iv)** Participate in ride alongs to maintain sufficient knowledge of police patrol procedures.
    - (c)** The Chief or the City Auditor may recommend that City Council remove a citizen member from the pool for the following reasons:
      - (i)** Failure to attend training
      - (ii)** Failure to read case files
      - (iii)** Objective demonstration of disrespectful or unprofessional conduct

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- (iv) Repeated and excessive unavailability for service when requested.
      - (v) Breach of confidentiality
      - (vi) Objective demonstration of bias for or against the police
      - (vii) Objective demonstration of conflict of interest
    - (2) One peer member of the same rank/classification as the involved officer; peer member will be selected from a pool of Bureau representatives pre-approved by the Chief.
    - (3) The Assistant Branch Chief who is the supervisor of the involved officer.
    - (4) The Director of IPR (or designee).
    - (5) A Commander or Captain who is the supervisor of the involved officer (RU Manager).
  - b.** Advisory members
    - (1) The Office of Accountability and Professional Standards manager.
    - (2) Representative from Bureau of Human Resources.
    - (3) Representative from City Attorney’s Office.
    - (4) The Internal Affairs Division Manager.
    - (5) Review Board Coordinator.
    - (6) Representative of Commissioner in Charge of the Bureau (“Commissioner in Charge”).
    - (7) Representative of the Training Division.
    - (8) The Assistant Chief(s) that are not the supervisor of the involved member.
  - c.** Representatives/Individuals that may also be present during the presentation of the case include:

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(1) Bargaining Units

(2) Involved Member

2. However, when the incident to be reviewed by the board involves any use of force, including all officer involved shootings, all in-custody deaths, any physical injury caused by an officer that requires hospitalization, and any use of force case referred to the Board pursuant to Code Subsection 3.20.140 B.1.a. or Code Subsection 3.20.140 B.1.e., one additional citizen member drawn on a rotating basis from the pool of current Citizen Review Committee members, as those members are described in Code Section 3.21.080, and one additional peer member shall serve on the Board, for a total of seven voting members. A quorum of six voting members, including two citizen members, and the RU manager or designee, and four Advisory members is required to be present to make recommendations to the Chief.
3. Citizen Review Committee members serving on the Board shall be subject to the same qualification and removal standards as other citizen members of the Board.
4. A Citizen Review Committee member who participates in a Board review of an incident cannot participate in a later appeal to the Committee of the same allegation(s).
5. Removal from participation on the Board shall not affect Citizen Review Committee membership.

**D. Access to information**

1. All members of the Board shall have access to necessary and relevant documents and an equal opportunity to participate in Board deliberations.
  - a. The Bureau and IPR shall develop a Bureau Directive establishing confidentiality provisions and distribution timeline provisions of Board materials.
2. The RU manager or designee will provide a written recommendation of the findings, reasoning for the recommendation and disposition recommendation.

**E. Board Facilitator**

1. The Board shall be facilitated by a person who is not employed by the Bureau and who is not a member of the Board.



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- a. The Bureau and IPR shall develop a Bureau Directive establishing selection criteria and confidentiality provisions for the Facilitator(s).
        - b. The voting members of the Board shall schedule a meeting to recommend a pool of facilitators based the Bureau Directive for approval of the Commissioner in Charge in accordance with City contract rules.
  2. The Board facilitator shall write the statement of recommended findings and discipline and a summary of any training and/or investigation issues or concerns on behalf of the Board and submit the statement to the Chief within two weeks of the Board meeting date.

**F. Board Recommendations**

1. The Board shall prepare a statement of its recommended findings and proposed discipline, if any, in every case for submission to the Chief. Such statement shall include:
  - a. The Board's recommended findings and a brief explanation of the Board's rationale for its recommendation, and a record of the Board's vote.
  - b. In the event that the Board is not unanimous, the statement shall contain a portion detailing the minority's recommendation.
2. The Board facilitator shall write the Board's statement of recommended findings and proposed discipline and a summary of any policy training and/or investigation issues or concerns on behalf of the Board and submit the statement to the Chief.
  - a. IPR and the Bureau will develop a Bureau Directive setting forth the timeliness provisions of the statement.

**G. Appeal of Board Recommendation.**

1. As provided in Code Chapter 3.21, once the Board has prepared a statement of proposed findings relating to complaints of alleged misconduct of an officer during an encounter involving a citizen, the complainant or involved officer may have the opportunity to appeal the recommended findings to the Citizen Review Committee.
2. Until the appeal period allowed by Code Chapter 3.21 has expired, and if an appeal is filed, until there is a final decision by the Citizen Review Committee or Council, the Chief may not issue proposed discipline or make recommendations to the Commissioner in Charge.

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- 3.** The Director of IPR, the Chief of Police, or Commissioner in Charge may request an expedited hearing by the Citizen Review Committee of an appeal when deemed necessary due to the nature of the underlying complaint.

**H.** Action by Chief of Police and Commissioner in Charge. After receiving the Board's statement described above and after the appeal period allowed by Code Chapter 3.21 has expired, or if an appeal is filed, after the Chief receives the Citizen Review Committee or the Council's recommendation in accordance with Code Chapter 3.21:

- 1.** In the following cases, the Chief shall make a recommendation regarding the appropriate findings and level of discipline to the Commissioner in Charge:
  - a.** Investigations resulting in a sustained finding and the proposed discipline is suspension without pay or greater.
  - b.** The following incidents involving use of force:
    - (1)** All officer involved shootings.
    - (2)** Physical injury caused by an officer that requires hospitalization.
    - (3)** All in custody deaths.
    - (4)** Any use of force where the recommended finding "out of policy".
- 2.** In the cases described in Subsection 1 above, the Commissioner in Charge shall make the final decision on findings and discipline, consistent with obligations under state and federal law, Portland City Charter and collective bargaining agreements.
- 3.** In all other cases, unless the Commissioner in Charge exercises authority over the case, the Chief shall make the final decision on proposed findings and discipline, consistent with obligations under state and federal law, Portland City Charter and collective bargaining agreements.
- 4.** In all cases where the Chief's and Police Commissioner's final discipline is outside of the range recommended by the discipline guide, the Chief and Police Commissioner shall provide an explanation in the final discipline letter of the reason or reasons for imposing discipline outside of the recommended range. The Chief and Police Commissioner shall not be required to disclose information that is confidential or otherwise protected

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against disclosure. The cumulative report of discipline imposed outside of the recommended range shall be included in the PPB semi-annual report.

- I.** Public reports. As often as deemed necessary by the Board, but at least twice each calendar year, the Board shall publish public reports summarizing its statements of findings and a summary of any training and/or investigation issues or concerns. Except as provided otherwise in this Subsection, the reports shall keep confidential and not include involved officers' names, the names of witnesses, or the name of any complainants. The reports shall be written by the Board facilitator. The reports may not be released before a final decision, including discipline if any, is made by the Chief or Commissioner in Charge.
- 1.** The public reports shall include the following for each case brought before the Board:
    - a.** Allegation(s) heard by the Board.
    - b.** A factual summary of the case.
    - c.** Summary of the Board's discussion.
    - d.** Record of the Board's vote, including recommended findings and discipline.
    - e.** Training and policy recommendations, including whether the recommendations were accepted by the Chief.
    - f.** The final decision of the Chief or Commissioner in Charge.
  - 2.** The public reports shall include the names of involved officers and witnesses in cases of officer involved shootings or in custody deaths where the names of such persons have previously been publicly released in connection with the incident, unless confidentiality or non-disclosure is required by statute, a court order, an administrative order, or a collective bargaining agreement. Where the names have not been previously released, the report may include the names if the public interest requires disclosure or if nondisclosure would undermine the public's confidence.
  - 3.** The public reports shall include any stipulated agreements where a final decision has been reached.
- J.** Stipulated Findings and Discipline
- 1.** The following categories of cases are not eligible for stipulated findings and recommended discipline: cases involving alleged use of excessive force; those categories of cases listed under Subsection 3.20.140 B.1.c.; cases

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involving alleged discrimination, disparate treatment or retaliation; reviews of officer involved shootings and in-custody deaths; and cases in which the Chief or the Commissioner in Charge does not agree to accept the member's proposed stipulation to findings and recommended discipline. These categories of cases, if they otherwise meet the criteria for review by the Board, shall go through Board review and recommendations.

2. The following categories of investigations are eligible for stipulated findings and recommended discipline without review by the Board when the involved member elects, with the concurrence of the Chief and the Commissioner in Charge, to accept the proposed findings and recommended discipline of the RU Manager following a full investigation of the alleged misconduct, issuance of investigative findings and concurrence with the findings by the Independent Police Review, the Professional Standards Division and the member's Branch Chief:
  - a. First time offenses that fall under Category A through Category D of the Police Bureau Discipline Guide.
  - b. Second time offenses that fall under Category A of the Police Bureau Discipline Guide.
  - c. First time off-duty driving while under the influence offenses that fall under Category E of the Police Bureau Discipline Guide. To be eligible for stipulated discipline for an off-duty driving under the influence offense, there can be no other driving-related violations or charges and the member must comply with all court ordered conditions of a diversion or delayed prosecution.
  - d. In an investigation involving multiple sustained violations, the violation with the highest category from the Police Bureau Discipline Guide will be used to determine whether the case qualifies for stipulated discipline.

**3.20.150 Fingerprints, Photographs and Records of Identification.**

The Chief of Police shall maintain at police headquarters suitable means and appliances for taking and preserving fingerprints, photographs, and descriptions of persons. He shall take or cause to be taken, recorded, and preserved one or more fingerprints and photographs, and a description of each person arrested and booked for the commission of a felony. Of each person arrested and booked for the commission of a misdemeanor or violation of a penal ordinance or Charter provision, he may, but is not required to, take and preserve one or more fingerprints, photographs, and a description. Such prints, photographs, and description shall be made a matter of permanent record when evidence showing previous conviction or convictions of any crime, misdemeanor, or violation of a penal ordinance or Charter provision shall have been obtained.

**3.20.160 Police Chief to Make Rules and Regulations.**

The Chief of Police shall have authority, subject to the approval of the Commissioner In Charge, to issue such administrative rules and regulations in addition to those embodied in the Charter and this Code, as are necessary to govern the conduct of the members of the Bureau of Police, and to provide for the adequate functioning of the Bureau.

**3.20.170 Uniforms.**

The following rules shall apply to uniforms for employees appointed to the Bureau of Police who are members of the Fire and Police Disability and Retirement System:

- A. The Chief of Police shall, subject to the approval of the Commissioner In Charge, prescribe specifications for police uniforms and establish rules, regulations and conditions of wearing thereof;
- B. Upon report from the Commissioner In Charge of the Bureau of Police, the Council shall designate which items of the uniform specified by the Chief of Police under subdivision (1) above shall be furnished by the City to those employees required to wear the prescribed uniform in performance of their normal and usual police duties. Each new employee shall be furnished a complete set of designated items of uniform. All other employees shall be furnished designated items of uniform on the basis of replacement when needed as determined by the Chief of Police. Items furnished by the City shall remain property of the City; and the Chief of Police shall establish rules, regulations, and conditions for issuance and control thereof;
- C. The Chief of Police shall have the authority to designate duty assignments which require dress other than the prescribed uniform. For such designated duty, no items of uniform shall be furnished, and those employees affected shall receive an annual cash clothing allowance in lieu of items of uniform furnished by the City. Clothing allowances shall be paid in accordance with Section 5.08.070.

**3.20.180 Appointment and Removal of Police Reserves.**

(Amended by Ordinance No. 143623, effective June 13, 1977.) The Chief of Police is authorized, subject to the approval of the Commissioner In Charge, to appoint new members to the police reserve from time to time as need therefore arises and to accept the resignations and discontinue appointments from time to time in accordance with his judgment concerning the public welfare and safety subject to the approval of the Commissioner In Charge; provided that the total number of such reserves at any time shall not exceed 200.

- A. Within the ranks of the police reserve the Chief of Police shall designate which members of the reserve shall serve as a special duty reserve unit. Members of the special duty reserve unit shall assist the Bureau in performing Sunshine Division, charitable, search and rescue and other non-law enforcement related functions.

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**3.20.190 Application, Oath of Office, Compensation and Equipment of Police Reserves.**  
(Amended by Ordinance Nos. 143623, 164223 and 189635, effective August 31, 2019.)

- A. Each new sworn member of the police reserve shall complete an application provided by the Chief of Police, giving such data concerning their age, weight, identification, residence, occupation, previous experience in police work, if any, citizenship, and other data as the Chief of Police may find necessary or convenient, including fingerprinting for better identification.
- B. Sworn members of such police reserve shall not be compensated unless specifically authorized and provided by the Council.
- C. Upon appointment each sworn member of the police reserve shall take an oath of office, and such oath shall be filed with the City Auditor.
- D. Sworn members of the police reserve shall serve at the pleasure of the Chief of Police and shall wear a uniform prescribed by the Chief of Police. They shall perform the duties and take training as directed by the Chief of Police. They shall observe the rules of deportment and conduct applicable to paid police officers. They shall, in the performance of their duties, be subject to the orders of commanding officers as designated by the Bureau of Police. They shall, at all times, cooperate with paid police officers in the performance of their duties. While on any authorized assignment, they shall be covered by the City's self-insurance, as authorized under the provisions of the Oregon State Workers' Compensation Act. The insurance shall be in a form approved by the City Attorney. It is unlawful for any person whose appointment has been terminated to retain possession of or refuse to return any badge, identification or equipment issued to such person after demand for the return has been made by the Mayor, Chief of Police or anyone acting under and by the authority of the Mayor or Chief of Police. Sworn members of the police reserve shall be subject to police duty only when authorized by the Chief of Police or designee.

**3.20.200 Membership Card and Star of Police Reserves.**

The Chief of Police is authorized to furnish each member of the police reserve with a membership card signed by the Chief of Police and signed by the member for identification purposes, and shall also furnish each member with a police star.

**3.20.210 Police Reserves Exempt from Civil Service.**

No member of the police reserve shall be regarded as a City employee or subject to civil service regulations.

**3.20.230 Medical Examinations.**

(Amended by Ordinance No. 134934, effective July 20, 1972.) Whenever the Chief of Police is in doubt concerning the physical or mental ability of a member of the Bureau of Police to perform full police duties, the Chief shall require that member, upon written

notice, to submit to a medical examination. The examination shall be conducted without expense to the member. Unexcused failure to take an examination required by this Section, after reasonable notice, shall be cause for the member's dismissal.

**3.20.240 Membership.**

(Amended by Ordinance Nos. 136679 and 189635, effective August 31, 2019.) The Bureau of Police shall consist of a Chief of Police, full time paid members, and members of the police reserve.

**3.20.250 Badges.**

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

**3.20.260 Block Home Applicants, Background Investigation Required.**

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

**3.20.270 Maintenance of Property Room.**

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

**3.20.280 Receipts for Property.**

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

**3.20.290 Records.**

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

**3.20.300 Prisoner's Property.**

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

**3.20.310 Evidence Property.**

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

**3.20.320 Miscellaneous Property and Storage Charges.**

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

**3.20.330 Storage Charge on Prisoner's Property.**

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

**3.20.340 Storage Charge on Evidence Property.**

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

**3.20.350 Lien and Foreclosure.**

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

**3.20.360 Fees for Report on Police Records.**

(Amended by Ordinance No. 153909, effective November 22, 1982.) The Bureau of Police shall establish a schedule of fees and procedures for obtaining copies of reports, searching arrest records, accident photographs, fingerprinting, and all similar records services it

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performs. Except upon court subpoena, reasonable limitations may be placed upon the amount of information made available, the use for which it may be requested, and the persons entitled to receive it. The schedule of fees and procedures established under this Section shall not be effective until approved by the Commissioner In Charge of the Bureau of Police. No fee shall be charged to those agencies (or their representatives) who request such services for official use and who have as a primary organizational responsibility the apprehension, prosecution, or the direct supervision of the parole or probation, of criminal offenders.

**3.20.370 Accountability and Disposition of Fees.**

(Amended Ordinance No. 153909, effective November 22, 1982.) The Chief of the Bureau of Police shall ensure that a full and complete record of all fees collected under that authority of this Chapter is kept and that all fees so collected are remitted to the City Treasurer as provided by Section 3.08.140. The City Treasurer shall credit the amounts so received to the General Fund.

**3.20.380 Conveyances Seized for Drug Transport.**

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

**3.20.390 Multnomah County Deputy Sheriffs Authorized the Arrest or Cite for Violations of City Code Provisions.**

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



**CHAPTER 3.21 - CITY AUDITOR'S  
INDEPENDENT POLICE REVIEW**

(Chapter replaced by Ordinance No. 175652;  
amended by Ordinance No. 188331, effective May  
19, 2017.)

**Sections:**

- 3.21.010 Purpose.
- 3.21.020 Definitions.
- 3.21.030 Independent Police Review.
- 3.21.040 Director Selection.
- 3.21.050 Staff and Delegation.
- 3.21.060 Office Facilities and Administration.
- 3.21.070 Powers and Duties of IPR.
- 3.21.080 Citizen Review Committee.
- 3.21.090 Powers and Duties of the Committee.
- 3.21.100 Council Role.
- 3.21.110 Intake.
- 3.21.120 Handling Complaints.
- 3.21.130 Communications.
- 3.21.140 Filing Requests for Review.
- 3.21.150 Case File Review.
- 3.21.160 Hearing Appeals.
- 3.21.170 Monitoring and Reporting.
- 3.21.180 Increasing Public Access.
- 3.21.190 Response of Chief.
- 3.21.200 Limitation on Power.
- 3.21.210 Subpoenas.
- 3.21.220 Bureau Witnesses.

**3.21.010 Purpose.**

(Amended by Ordinance No. 188331, effective May 19, 2017.) The City hereby establishes an independent, impartial office, readily available to the public, responsible to the City Auditor, empowered to act on complaints against Police Bureau personnel for alleged misconduct, and recommend appropriate changes of Police Bureau policies and procedures toward the goals of safeguarding the rights of persons and of promoting higher standards of competency, efficiency and justice in the provision of community policing services. This office shall be known as the Independent Police Review.

**3.21.020 Definitions.**

(Amended by Ordinance Nos. 176317, 183657, 186416 and 188331 effective May 19, 2017.) In this Chapter:

- A. “Appellant” means either:

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1. A person who has filed a complaint with IPR and subsequently requested review of the investigation or
  2. A member about whom a complaint has been filed with IPR and who has subsequently requested review by the Committee of the investigation.
- B.** “Bureau” means the Bureau of Police of the City of Portland, Oregon.
- C.** “Chief” means the Chief of the Bureau.
- D.** "Citizen" or “community member” means any person who is not an employee of the Bureau.
- E.** “Commissioner In Charge” means the Commissioner In Charge of the Bureau.
- F.** “Committee” means the Citizen Review Committee, which is appointed by City Council members to assist IPR in the performance of its duties and responsibilities pursuant to this Chapter.
- G.** “Complaint” means a complaint by a citizen, the Director, a member or other employee of the Bureau of alleged member misconduct.
- H.** "Complainant" means any person who files a complaint against a member of the Portland Bureau.
- I.** "Director" means the director of the Independent Police Review or the Director’s designee.
- J.** "Finding" means a conclusion reached after investigation as to whether facts show a violation of Bureau policy.
- K.** "Early Warning System" means the Bureau's method of identifying officers exhibiting a pattern of behavior that signals potential problems for both the Bureau and public, as explained in General Order 345.00.
- L.** “IAD” means the Internal Affairs Division of the Bureau, whose responsibilities and procedures are described in Section 330.00 of the Manual of Rules and Procedures of the Bureau, as amended from time to time.
- M.** "IPR Investigator" means an investigator of the Independent Police Review.
- N.** "IPR" means the Independent Police Review.
- O.** "Member" means a sworn employee of the Bureau or a supervisor of sworn employees. An “involved” member is a member about whom a complaint has been submitted to IPR or the Bureau.

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- P.** “Misconduct” means conduct by a member which conduct violates Bureau regulations or orders, or other standards of conduct required of City employees.
- Q.** “Request for Review” means a request by an appellant that the Committee review an IAD or IPR investigation of alleged member misconduct.
- R.** “RU (Responsibility Unit) Manager” means a commanding officer or manager of a Bureau division, unit or precinct.
- S.** “Supported by the Evidence.” A finding regarding a complaint is supported by the evidence when a reasonable person could make the finding in light of the evidence, whether or not the reviewing body agrees with the finding.
- T.** “Police Review Board” means the board established by Code Section 3.20.140.
- U.** "Policy-related issue" means a topic pertaining to the Police Bureau's hiring and training practices, the Manual of Policies and Procedures, equipment, and general supervision and management practices, but not pertaining specifically to the propriety or impropriety of a particular officer's conduct.
- V.** “Supervisory Investigation” means a formal, non-disciplinary process where the involved member’s supervisor is tasked with reviewing a complaint stating a member provided poor quality of service or committed a rule violation that if sustained would not result in corrective action greater than command counseling, as defined by the Bureau’s discipline guide.

**3.21.030 Independent Police Review.**

(Amended by Ordinance No. 188331, effective May 19, 2017.) There is established by the City Council the Independent Police Review, a division within the Auditor's Office.

**3.21.040 Director Selection.**

(Amended by Ordinance Nos. 186416 and 188842, effective March 30, 2018.) The City Auditor shall select the Director of IPR in accordance with the Auditor’s human resource policies and rules and any other applicable laws. The Director shall be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems of administration, and public policy, and shall have a working knowledge in criminal justice commensurate to the powers and duties of the office.

**3.21.050 Staff and Delegation.**

(Amended by Ordinance No. 186416, effective February 7, 2014.)

- A.** The Director may appoint other personnel necessary to carry out the provisions of this chapter, when in keeping within the adopted budget for the IPR.
- B.** The Director may delegate to a designee any or all duties or responsibilities.

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**3.21.060 Office Facilities and Administration.**

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A. The City shall provide suitable office facilities for the Director and staff in a location convenient for the public but separate from the Bureau.
- B. The IPR office shall be located within the City Auditor's office, and be accountable to the City Auditor. The Director shall comply with the Auditor's purchasing procedures but shall have sole discretion in choosing consultants to assist with investigations.

**3.21.070 Powers and Duties of IPR.**

(Amended by Ordinance Nos. 176317, 183657, 185076, 186416, 188331, 188547 and 188842, effective March 30, 2018.) The Director's powers and duties are the following:

- A. Intake. IPR shall receive complaints and select the appropriate manner to address the complaint.
- B. Report on complaint activities. IPR shall track and report on the disposition of complaints to the public, IAD, the Chief, and the Council and monitor and report measures of activity and performance of IAD and IPR. IPR will also monitor and track trends relating to member history and complaint type as well as frequency, consistency and adequacy of discipline imposed. In performing these duties, IPR shall have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for IPR to perform its duties. IPR shall also have direct access to original database sources as permitted by state and federal law.
- C. Access to Police data and data sources. IPR shall have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for IPR to perform its duties. IPR shall also have direct access to original database sources as permitted by state and federal law.
- D. Initiate, monitor and conduct investigations. IPR is authorized to initiate, monitor and conduct administrative investigations. IPR is authorized to identify complaints or incidents involving members that are of community concern which merit additional involvement of the Director and to review evidence and IAD investigation efforts, participate in investigations with IAD investigators, or conduct the investigations in conjunction with or independent of the Bureau.
  - 1. For investigations conducted by IPR, investigation reports will include recommended findings.

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2. The Bureau shall notify the Director that it intends to conduct an administrative investigation into misconduct before initiating the investigation.
- E. Compel review. In accordance with the procedures of Code Section 3.20.140, the Director may compel review by the Police Review Board of any RU Manager's or Commanding Officer's proposed findings and discipline resulting from a Bureau or IPR administrative investigation of a member. The Director may compel review by the Police Review Board on the basis of recommended discipline whether or not discipline was recommended as a result of the investigation.
- F. Communicate with Complainants. IPR will be the primary contact with the complainant regarding the status and results of the complaint; to assist IAD in communicating with the Member.
- G. Arrange hearings of appeals. IPR will explain the appeal options to complainants and schedule hearings before the Committee and Council.
- H. Recommend policy changes. IPR will evaluate complaint and other information and investigation practices to make recommendations to the Chief to prevent future problems. Policy change recommendations shall be published for public review.
- I. Outreach. IPR will widely distribute complaint forms in languages and formats accessible to citizens, educate them on the importance of reporting complaints, and hold public meetings to hear general concerns about police services.
- J. Access to information. Notwithstanding any other provision of City law, IPR shall have access to and be authorized to examine and copy, without payment of a fee, any bureau information and records, including confidential and legally privileged information and records so long as privilege is not waived as to third parties, and police databases, subject to any applicable state or federal laws. The Director shall not disclose confidential or legally privileged information or records and shall be subject to the same penalties as the legal custodian of the information or records for any unlawful or unauthorized disclosure.
- K. Adoption of rules. IPR shall adopt, promulgate, amend and rescind rules and procedures required for the discharge of the Director's duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and recommendations. However, the Director may not levy any fees for the submission or investigation of complaints.
- L. Review of closed investigations. IPR shall hire a qualified person to review closed investigations pertaining to officer-involved shootings and deaths in custody on an ongoing basis. IPR shall issue reports on an annual basis identifying any policy-related issues or quality of investigation issues that could be improved. The

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Director and the Citizen Review Committee shall address any policy-related or quality of investigation issues that would warrant further review.

- M.** Additional public reports. The Director may issue public reports related to member misconduct trends and Bureau disciplinary practices.
- N.** Conduct investigative interviews of Bureau employees.
- O.** All Bureau employees shall be truthful, professional and courteous in all interactions with IPR. No member shall conceal, impede or interfere with the filing, investigation or adjudication of a complaint.
- P.** The Auditor may retain or employ independent legal counsel.

**3.21.080 Citizen Review Committee.**

(Amended by Ordinance Nos. 177688, 185076, 186416, 188331 and 189078, effective July 18, 2018.)

- A.** The Committee shall consist of eleven citizens. Five members shall constitute a quorum of the Committee. Decisions shall be made by a majority of Committee members present and constituting a quorum. However, adoption or amendment of rules of procedures or protocols requires an affirmative vote of six members. The Committee members shall be appointed as follows:
  - 1.** The Director shall solicit applications from the Office of Community & Civic Life, the seven Neighborhood Coalition offices, Mayor and commissioners' offices, PPB advisory committees, and the general public.
  - 2.** The City Auditor shall appoint a committee that shall recommend to the Auditor the appropriate number of nominees to fill impending vacancies. The selection committee shall consist of three CRC representatives, either past or not applying for reappointment, two members of the community, and the Director. Three of the selection committee members, including one CRC representative and the Director, shall serve as the interview panel.
  - 3.** Selection criteria shall include a record of community involvement, passing a criminal background check performed by an agency other than the Bureau, and absence of any real or perceived conflict of interest. The selection committee will nominate individuals who are neutral, unbiased, and capable of making objective decisions. The Mayor and commissioners may each submit an applicant meeting these qualifications.
  - 4.** The Auditor shall recommend nominees to Council for appointment.

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5. In the event a majority of the Council fails to appoint a person nominated under the provisions of City Code Section 3.21.080 the Auditor shall initiate the process again within 30 days after the Council action.
6. In selecting Committee members, consideration shall be given to the current composition of the Committee and appointments should be made that will cause the group to best reflect the demographic make-up of the community.

**B.** The Committee members shall:

1. Participate in orientation and training activities that may include review of Bureau and IPR procedures, participation in Bureau training to become familiar with police training, policies and investigative practices, including Police Review Board process, participate in ride-alongs with officers, to maintain sufficient knowledge of police patrol procedures.
2. Each serve a term of three years, subject to reappointment by Council. Upon expiration of the term, a committee member shall serve until re-appointed or replaced.
3. Attend committee meetings or provide an explanation in advance for an absence.
4. Serve staggered terms to better ensure continuity. Four members of the Committee shall be appointed to one year terms in July 2001.
5. Select a chair from among their members. Adopt such operating policies and procedures as necessary to carry out their duties.
6. Sign a confidentiality agreement.
7. Serve on the Police Review Board when the Board reviews use of force cases as defined in Chapter 3.20. Committee members shall serve on the Police Review Board on a rotating basis for no more than two terms of three years.

**3.21.090 Powers and Duties of the Committee.**

(Amended by Ordinance Nos. 177688 and 185076, effective December 14, 2011.)

**A.** The Committee's duties and powers are the following:

1. Conduct meetings. To schedule and conduct at least four meetings per year for the purpose of exercising the authority delegated to it in this chapter. Quarterly meetings and hearings conducted pursuant to the Chapter shall be subject to the Oregon Public Meetings Law, ORS 192.610 through 192.710. The number of Committee members required for a quorum shall be five.

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2. Gather community concerns. To participate in various community meetings to hear concerns about police services.
3. Recommend policy changes. To evaluate complaint, investigative practices, and other information to make policy recommendations to the Chief of Police, the Director, and the Council to prevent and rectify patterns of problems.
4. Advise on operations. To review methods for handling complaints and advise on criteria for dismissal, mediation, and investigation.
5. Hear appeals. To hold hearings of complainant or member appeals as defined in City Code Section 3.21.160; to recommend referral to a final hearing before Council; to publicly report its findings, conclusions and recommendations.
6. Outreach to public. To advise and assist the Director to disseminate information about IPR and Committee activities to organizations in the community; to present reports to Council.
7. Create other committees. To create special purpose subcommittees or committees including other citizens to address particular short-term issues and needs.

**3.21.100 Council Role.**

- A. Council shall review applications of nominees to the Committee and vote whether to approve each appointment.
- B. Council shall hear final appeals as specified in 3.21.160.

**3.21.110 Intake.**

(Amended by Ordinance Nos. 179162, 186416, 188331 and 188842, effective March 30, 2018.)

- A. The Director shall receive complaints from any source concerning alleged member misconduct. The Director shall make reasonable accommodation when complainants cannot file their complaint at the IPR office. All allegations of use of excessive force shall be subject to a full and completed investigation resulting in findings, unless there is clear and convincing evidence to IPR that the allegation has no basis in fact.

1. A community member may file a complaint or commendation regarding alleged member misconduct with IPR, Internal Affairs, a Police Bureau Precinct, the Police Commissioner, or with any Bureau member.





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- B.** The Director shall develop procedures for handling complaints and appeals involving matters currently in litigation or where a notice of tort claim has been filed. The Director shall not initiate a case where a grievance or other appeal has been filed under a collective bargaining agreement or City personnel rules; or with respect to employee or applicant discrimination complaints.
- C.** The Director, when requested, shall protect the confidentiality of complainants, members or witnesses consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the Director to carry out their duties, or to comply with applicable collective bargaining agreements, or the disclosure of records is directed by the District Attorney. When considering a request for public records, the Director shall consult with appropriate Bureau personnel and obtain approval from the Bureau prior to disclosure of records under the Oregon Public Records Law.
- D.** No member of the community or the Police Bureau shall face retaliation, intimidation, coercion, or any adverse action for reporting misconduct or cooperating with a misconduct investigation.

**3.21.120 Handling Complaints.**

(Amended by Ordinance Nos. 179162, 183657, 186416, 188331 and 188547, effective September 8, 2017.) To ensure appropriateness and consistency in handling complaints the Director shall work with the Committee to establish procedures for taking action based upon the characteristics of the complaint.

- A.** Mediation. The complainant, the Member who is the subject of the complaint, and Bureau administration must all agree before mediation can be conducted. A complaint that undergoes mediation shall not be investigated. A mediation may be suspended if, in the opinion of the mediator, there is no reasonable likelihood of reaching resolution.
- B.** Complaint Types:
  - 1.** Complaint Type I: IPR is the intake point for complaints from community members and others regarding the conduct of members during an encounter involving a community member. Type I complaints involve alleged misconduct of a member during an encounter involving a community member.
  - 2.** Complaint Type II: A complaint about alleged member misconduct that does not occur during an encounter involving a community member is a Type II complaint. Such a complaint may be initiated by another Bureau employee or supervisor, or may be based on information obtained from another law enforcement agency, an employee of governmental agency

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acting in an official capacity or a community member. These complaints may be filed with the Bureau or with IPR.

3. Complaint Type III: A complaint may be initiated by the Director at the discretion of the Director that an administrative investigation is warranted. IPR can initiate a complaint whether or not the alleged misconduct occurred during an encounter involving a community member and is not dependent on a community or Bureau member filing a complaint.
  - a. IPR will initiate and conduct administrative investigations in accordance with Human Resources Administrative Rules regarding process and investigation of complaints of discrimination.
  - b. If a criminal investigation has been initiated against the involved member, or during the course of an IPR administrative investigation a basis for conducting a criminal investigation arises, IPR shall advise the City Attorney and/or District Attorney prior to initiating or continuing an administrative investigation. IPR shall take all steps necessary to meet constitutional requirements and comply with existing provisions of City labor agreements.
4. Complaint Type IV: When Bureau supervisors generate complaints about poor member performance or other work rule violations. RU managers are responsible for intake and investigation of allegations of Type IV cases.
5. For all complaint types, the Bureau shall notify IPR prior to the termination of any administrative investigation that has not been assigned for recommended findings.

**C. Initial Handling and Investigation of Type I Complaints**

1. Once IPR receives a Type I complaint regarding alleged misconduct of a member during an encounter involving a community member, IPR will:
  - a. Gather information about the complaint through an intake interview;
  - b. Assign an IPR/IAD Case Number;
  - c. Make a case handling decision; and
  - d. Send a letter to the complainant summarizing the complaint and the Director's case handling decision.
2. If IPR determines an investigation is appropriate, IPR will identify the complainant's allegations and either:

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**a.** Recommend that the Bureau/IAD conduct an investigation

IPR shall gather information from the complainant and forward it to the Bureau/IAD. IPR shall monitor the on-going Bureau investigation. The Director may determine that a Bureau/IAD investigation should also involve IPR personnel. When forwarding the complaint to the Bureau/IAD the Director shall notify the Captain of IAD of the extent that IPR personnel must be included in the investigation. Bureau/IAD personnel shall schedule interviews and other investigative activities to ensure that IPR personnel can attend and participate.

IPR personnel shall have an opportunity to review and comment on draft reports regarding a Bureau/IAD investigation to ensure accuracy, thoroughness, and fairness. The investigation cannot be closed or sent to the RU manager without IPR's determination that the investigation is complete.

To facilitate review, IAD shall tape record all interviews with witnesses, including members of the Bureau, conducted during an IAD investigation and shall make those tapes, or accurate copies, available during a review of an IAD investigation.

In carrying out its functions, the IPR may visit IAD offices, examine documents, reports and files and take such other actions as the Director deems necessary and consistent with the purposes of this Chapter. To maintain the security of IAD documents, reports or files, the Chief may require that the examinations be conducted in the IAD offices.

**b.** IPR may conduct an independent investigation.

The Director shall have discretion to initiate and conduct an independent investigation of alleged member misconduct. The Director may conduct an independent investigation whether or not the alleged misconduct involves an encounter with a community member.

IPR investigations shall be conducted in conformance with legal and collective bargaining provisions. The Director shall notify the Captain of IAD that IPR has undertaken an investigation and the reason.

To facilitate review, IPR shall tape record all interviews with witnesses, including members of the Bureau, conducted during an

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investigation and shall make those tapes, or accurate copies, available during a review of an investigation.

The Director shall provide the Captain of IAD and the Police Chief with a report on the investigation, including recommended findings, and present the IPR investigation, with recommended findings to the RU manager for preparation of RU Manager's proposed findings and discipline. At the completion of the investigation and any appeal process the records of the investigation shall be transferred to the IAD offices for retention.

3. Referral. IPR may refer a complaint regarding quality of service or other rule violations that likely would not result in discipline according to the Bureau. The Director may refer the complainant to another bureau in the City or another agency that would be more appropriate to address the complaint.
4. Administrative Closure. After an initial investigation, IPR may decline to take further action on a complaint. If there is an administrative closure, IPR will provided notification to the complainant. IPR will also notify the involved officer(s) and their commanding officer within 30 calendar days of the administrative closure. The Director may administratively close a complaint for the following reasons:
  - a. Another remedy exists that would resolve the complainant's issue.
  - b. The complainant delayed too long in filing the complaint to justify present examination;
  - c. Even if all aspects of the complaint were true, no act of misconduct would have occurred;
  - d. The complaint is trivial, frivolous or not made in good faith;
  - e. Where there is clear and convincing evidence that the involved member did not engage in misconduct.
  - f. The complainant withdraws the complaint or fails to complete necessary steps to continue with the complaint.
  - g. IPR was unable to identify the involved member.
  - h. Lack of jurisdiction.

**D. Initial Handling and Investigation of Type II Complaints**

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1. If a Type II complaint is filed with IPR, IPR will gather information about the complaint and make a case handling decision. When appropriate, IPR will assign an IPR/IAD case number. Before disposing of a complaint of alleged misconduct or initiating an investigation, IPR shall notify the Bureau in writing how it intends to process the complaint and whether it intends to refer the case to the Bureau/IAD to conduct an investigation or conduct an independent investigation as set forth below. IPR will make an entry regarding the allegations in the Administrative Investigation Management (AIM) or other appropriate database which can be reviewed by the Director.
2. If a Type II complaint is filed within the Bureau, Bureau/IAD staff will create an intake worksheet and assign an IPR/IAD case number for use by IAD. Before disposing of a complaint of alleged misconduct or initiating an investigation, the Bureau/IAD shall notify the Director in writing how it intends to process each complaint and whether it intends to conduct an internal investigation. In addition, the Bureau/IAD will make an entry regarding the allegations in the Administrative Investigation Management (AIM) database or other appropriate database which can be reviewed by the Director.
3. Bureau/IAD Investigation. If the Type II complaint is filed with IPR, IPR shall gather information from the complainant and forward it to the Bureau/IAD. IPR shall monitor the on-going investigation. The Director may determine that a Bureau/IAD investigation should also involve IPR personnel. When forwarding the complaint to the Bureau/IAD, the Director shall notify the Bureau/Captain of IAD of the extent that IPR personnel must be included in the investigation. Bureau/IAD personnel shall schedule interviews and other investigative activities to ensure that IPR personnel can attend and participate.

IPR personnel shall have an opportunity to review and comment on draft reports and recommended findings regarding a Bureau/IAD investigation to ensure accuracy, thoroughness, and fairness. The investigation can not be closed or sent to the RU manager without IPR's determination that the investigation is complete.

To facilitate review, IAD shall tape record all interviews with witnesses, including members of the Bureau, conducted during an IAD investigation and shall make those tapes, or accurate copies, available during a review of an IAD investigation.

In carrying out its functions, the IPR may visit IAD offices, examine documents, reports and files and take such other actions as the Director deems necessary and consistent with the purposes of this Chapter. To

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maintain the security of IAD documents, reports or files, the Chief may require that the examinations be conducted in the IAD offices.

4. IPR independent investigation. The Director shall have discretion to initiate and conduct an independent investigation of alleged member misconduct. The Director may conduct an independent investigation whether or not the alleged misconduct involves an encounter with a community member. The IPR investigations shall be conducted in conformance with legal and collective bargaining provisions. The Director shall notify the Bureau/Captain of IAD that IPR has undertaken an investigation and the reason.

To facilitate review, IPR shall tape record all interviews with witnesses, including members of the Bureau, conducted during an investigation and shall make those tapes, or accurate copies, available during a review of an investigation.

The Director shall provide the Captain of IAD and the Police Chief with a report on the investigation, including recommended findings and present the IPR investigation with recommended findings to the RU manager for preparation of RU Manager's proposed finding and discipline. At the completion of the investigation the records of the investigation shall be transferred to the IAD offices for retention.

5. Referral. IPR may refer a complaint regarding quality of service or other rule violations that likely would not result in discipline according to the Bureau. The Director may refer the complainant to another bureau in the City or another agency that would be more appropriate to address the complaint.

**E. Initial Handling and Investigation of Type III Complaints**

Upon opening a Type III IPR initiated complaint investigation. IPR staff will create an intake worksheet and assign an IPR/IAD case number. If a Type III case involves alleged member misconduct during an encounter involving a community member, the case will be handled following the same procedures as a Type I complaint. If a Type III case involves alleged member misconduct that does not occur during an encounter involving a community member, the case will be handled following the same procedures as a Type II complaint.

**F. Initial Handling and Investigation of Type IV Complaints**

RU managers are responsible for intake and investigation of allegations of Type IV cases. The RU manager will provide the Director a summary of the complaint and a summary of any subsequent investigation of a sworn member. The Director may

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refer the matter to IAD for further investigation, conduct additional investigation, or controvert the RU manager's recommendations and compel review by the Police Review Board after receiving the completed investigation.

**G.** Type I, II, III & IV Post-Investigative Case Handling Procedures:

1. Adequacy of investigation. When an investigation of any type of complaint is conducted by IAD or other designated PPB division, after the investigation, including RU Manager's proposed finding and discipline, is complete, IAD will provide the Director with a copy of and provide unrestricted access to the entire investigation file. Upon review of the file, the Director or designee must determine whether or not the investigation is adequate, considering such factors as thoroughness, lack of bias, objectivity, and completeness. If the Director determines that the investigation is not adequate, the investigation shall be returned to the IAD or other designated division within the Bureau explaining the determination and providing direction. Such direction shall include, but not limited to, rewriting portions of the summary, gathering additional evidence, conducting additional interviews, or re-interviewing officers or civilians. The investigation can not be closed or sent to the RU manager without IPR's determination that the investigation is complete. Upon receipt of IPR's determination that the investigation is complete, IAD shall send the investigation to the appropriate RU Manager.
2. Submission of recommended findings to RU Manager. The RU manager will review the investigation and recommended finding for any type of complaint when the investigation is conducted by IAD, other designated PPB division or IPR and submit the RU Manager's proposed finding and discipline to the Captain of IAD. The Captain of IAD will circulate the RU Manager's proposed finding to the Director and the Supervising Assistant Chief. After receipt of the RU Manager's proposed finding and discipline, the supervising Assistant Chief, the Director or the Captain of IAD may controvert the RU Manager's proposed finding and/or discipline. All controverts shall be documented in a memo that clearly articulates that the reviewer wishes to controvert and provides an adequate explanation for the writer's basis for disagreeing with the recommended finding or discipline.
  - a. If the RU Manager determines that an investigation by IAD or IPR is not adequate, the RU Manager may return the investigation to the investigating entity for further investigation explaining the determination and providing direction for further investigation. Such direction shall include, but not be limited to, investigating additional allegations of misconduct, gathering additional evidence, conducting additional interviews, re-interviewing officers or



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civilians, or requesting factual errors within the investigative report be corrected.

- b.** If the RU Manager disagrees with the recommended finding by IA or IPR the RU Manager will document their disagreement, based on the evidentiary record, with the investigative entity in the RU's proposed finding and discipline
- 3.** Police Review Board meeting. If the RU Manager's proposed findings and/or proposed discipline are controverted, the Bureau shall schedule a Police Review Board meeting on the complaint. As specified in Code Section 3.20.140, the Police Review Board shall also hold a meeting for review of a case if it involves an officer-involved shooting, physical injury caused by an officer that requires hospitalization, an in-custody death, a less lethal incident where the recommended finding is "out of policy" or if the investigation resulted in a proposed sustained finding and the proposed discipline is suspension without pay or greater.
- 4.** Notification and Appeals of Type I and III complaints without Police Review Board meeting. In Type I cases, and Type III cases where the alleged misconduct occurred during an encounter involving a community member, if the RU Manager's proposed findings and discipline are not sent to the Police Review Board for a meeting, the Director shall send a letter to the complainant explaining the disposition of the complaint and add any appropriate comment regarding the reasoning behind the decision. Both the complainant and involved member will be notified of the investigative entity's recommended finding. IPR will notify the complainant that they have a right to request a review of the Bureau's proposed findings to the Committee and provide an appeal form. The Bureau will notify the involved member regarding the disposition of the complaint. The Bureau will notify the involved member of the right to request a review of the proposed findings to the Committee. The Bureau will be responsible for providing the member and union representative with the appeal form. A copy of the communications sent by IPR and IAD will be placed into the AIM database or other appropriate database for both IPR and IAD review.
- 5.** Notification and Appeals of Type I and III complaints after Police Review Board hearing. In Type I cases and Type III cases where the alleged misconduct occurred during an encounter with a community member and the RU Manager's proposed findings and discipline are sent to the Police Review Board for a meeting, the Director shall send a letter to the complainant explaining the disposition of the complaint and add any appropriate comment regarding the reasoning behind the decision. Both the complainant and involved member will be notified of the investigative entity's recommended finding. IPR will notify the complainant that they

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have a right to request a review of the proposed findings to the Committee and provide an appeal form. The Bureau will notify the involved member regarding the proposed findings of the Police Review Board. The Bureau will notify the involved member of the right to request a review of the proposed findings to the Committee. The Bureau will be responsible for providing the member and union representative with the appeal form. A copy of the communications sent by IPR and IAD will be placed into the AIM database or other appropriate database for both IPR and IAD review.

6. No appeal of Type II and certain Type III complaints. In Type II cases and Type III cases that involve alleged member misconduct that does not occur during an encounter involving a community member, the recommended findings may not be appealed to the Committee.
7. Nothing in this section prohibits the Bureau from terminating the employment of a probationary officer without following the procedures of this Section.
8. The Police Commissioner and the City Auditor shall be notified and provided with explanatory information in all cases where an administrative investigation exceeds 129 days, and the information posted on the City's website.

**3.21.130 Communications.**

The IPR shall ensure that the complainant and member complained about are informed of the progress and status of the complaint or appeal. Communication may be accomplished orally or by first class mail.

**3.21.140 Filing of requests for review.**

(Amended by Ordinance Nos. 183657 and 187136, effective June 19, 2015.)

- A. Any complainant or member who is dissatisfied with an investigation of alleged member misconduct that occurred during an encounter with a community member may request a review.
- B. The request for review must be filed within 14 calendar days of the complainant or member receiving IPR's notification regarding disposition of the case. The Director may adopt rules for permitting late filings. When good cause has been established, the Director may accept late filings. Good cause includes, but is not limited to:
  1. Appellant has limited English language proficiency.
  2. Appellant has physical, mental or educational issues that contributed to an untimely request for review.

- C. A request for review must be filed in writing personally, by mail or email with the IPR Office, or through other arrangements approved by the Director.
- D. The request for review shall include:
  - 1. The name, address, and telephone number of the appellant;
  - 2. The approximate date the complaint was filed (if known);
  - 3. The substance of the complaint;
  - 4. The reason or reasons the appellant is dissatisfied with the investigation.
- E. The complainant or member may withdraw the request for review at any time.

**3.21.150 Case File Review.**

(Replaced by Ordinance No. 187136; Amended by Ordinance No. 188331, effective May 19, 2017.)

- A. When the Director receives and accepts a timely request for review, a Case File Review and Appeal Hearing shall be scheduled before the Committee. The Director will notify the CRC Executive Committee upon receipt of a request of review. The Case File Review shall take place prior to the Appeal Hearing either on the same day or on an earlier date.
- B. The Case File Review will be an opportunity for the Committee to assess the completeness and readiness of the investigation for an Appeal Hearing. Public comment will be allowed before the Committee has made a decision whether a case is ready for an Appeal Hearing. In the event that the Committee conducts a Case File Review and Appeal Hearing on the same day, public comment will be allowed before the Committee has made its recommendation to the Bureau.
- C. During either the Case File Review or Appeal Hearing, the Committee may direct, by majority vote, additional investigation by either IAD and/or IPR.
  - 1. Only Committee members who have read the case file are eligible to vote.
  - 2. The Committee will have one opportunity to direct additional administrative investigation, all other requests will be at the discretion of either IAD or IPR.
  - 3. The request for additional investigation may include multiple areas of inquiry.
  - 4. All additional investigation will be conducted in a timely manner, with the Committee given regular updates.

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- D.** If the committee agrees no further investigation and consideration of the evidence appears warranted, the committee shall vote on when to hold an Appeal Hearing.

**3.21.160 Hearing Appeals.**

(Amended by Ordinance Nos. 185076, 188331 and 188547, effective September 8, 2017.)

- A.** An Appeal Hearing shall be conducted after a majority vote of the Committee to hold such a hearing at the case file review or other meeting of the full Committee. Public comment will be allowed before the Committee has made its recommendation to the Bureau.

- 1.** At the Appeal Hearing the Committee shall decide by majority vote:

- a.** To recommend further investigation by IAD or IPR; or
- b.** If the finding is supported by the evidence. In a case where the majority of the voting members of the Committee affirms that the Bureau's proposed findings are supported by the evidence, the Director shall close the complaint; or
- c.** If the finding is not supported by the evidence. In a case where a majority of the voting members of the Committee challenges one or more of the Bureau's proposed findings by determining that one or more of the findings is not supported by the evidence, and recommends a different finding, the Director shall formally advise the Bureau in writing of the Committee recommendation.
  - (1)** If the Bureau accepts the recommendation, the Bureau shall formally advise the Director in writing, and the Director shall close the case.
  - (2)** If the Bureau does not accept the recommendation, the Bureau shall formally advise the Director in writing, and the Director shall schedule the case for a conference hearing.
    - (a)** At the conference hearing, if the Committee, by a majority vote, is able to reach an agreement with the Bureau on the proposed findings, the Director shall close the case.
    - (b)** If, by majority vote, the Committee can not reach an agreement with the Bureau on the proposed findings, the Committee shall vote whether to present the appeal to City Council.

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- (c) If, by majority vote, the Committee decides to present the appeal to City Council, the Director and the Committee Chair will schedule an appeal hearing before City Council. The Committee shall appoint one of its members to present its recommended findings during the appeal to City Council.

2. In its hearing the Council shall decide:

- a. If the finding is supported by the evidence. The Director shall inform the complainant, member, IAD and the Chief of the Council's decision and close the complaint; or
- b. If the finding is not supported by the evidence. The Council shall decide what the finding is. The Director shall inform the complainant, member, IAD and the Chief of the Council's decision and close the complaint.

**B.** In reviewing the investigation, the Committee may examine the appeal form and any supporting documents, the file and report of the IAD and IPR, and any documents accumulated during the investigation and may listen to the tape recordings of the witnesses produced by IPR and IAD. The Committee may receive any oral or written statements volunteered by the complainant or the member or other officers involved or any other citizen. The complainant or member may appear with counsel. When the Committee's review process develops new information, the Committee may consider the new information when determining if additional investigation is warranted, but the Committee may not incorporate the new information in the evidentiary record the Committee considers when determining if a finding is supported by the evidence.

**C.** In reviewing the investigation, the Council may examine the appeal form and any supporting documents, the file and report of the IAD and IPR, any documents accumulated during the investigation, the recording of the Committee's case file review and appeal hearing, the Committee's Case File review Worksheet, and may listen to the tape recordings of the witnesses produced by IPR and IAD. The Council may receive any oral or written statements volunteered by the complainant or the member about whether or not they believe the finding is or is not supported by the evidence in the record. No new evidence may be introduced in the hearing. The complainant or member may appear with counsel.

**D.** Witnesses.

- 1. The Committee and Council may require within its scope of review the investigators and Captain of IAD and the Director to appear and answer questions regarding the investigation and may also require the responsible

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Bureau Commander to answer questions regarding the basis and the rationale for a particular decision.

2. Other Witnesses. Other witnesses shall not be required to appear involuntarily before the Committee.
3. Council may utilize the full powers granted by Section 2-109 of the Charter, including the power to compel the attendance and testimony of witnesses, administer oaths and to compel the production of documents and other evidence. The power to compel the attendance and testimony of witnesses in accordance with City Code Section 3.21.160 D.3. shall not be delegated by the Council to the Committee.

**3.21.170 Monitoring and Reporting.**

(Amended by Ordinance No. 181483, effective January 18, 2008.)

- A. The Director shall develop a data system to track all complaints received, develop monthly reports to inform IAD and the Chief regarding IAD workload and performance, and inform complainants and members regarding the status of complaints and appeals.
- B. The Director shall use complaint and OMF Risk Management Division data to support the Bureau's Early Warning System.
- C. The Director shall work with the Committee to develop recommendations to modify Bureau policies and procedures in order to prevent problems, improve the quality of investigations, and improve police-community relations.
- D. The Director shall work with the Committee to develop quarterly and annual summary reports for the Chief, Commissioner in Charge, Council and public on IPR and IAD activities, policy recommendations, and Bureau follow-through on recommendations. The report may include analysis of closed files which were not appealed, but it is not the intent that the files be reopened.

**3.21.180 Increasing Public Access.**

(Amended by Ordinance No. 186416, effective February 7, 2014.)

- A. The Director shall work with the Committee to make complaint forms available in formats and locations to reach as many community members as possible.
- B. The Director shall work with the Committee to develop programs to educate the public about IPR and the importance of reporting problems.
- C. The Director shall work with the Committee to develop programs to educate Bureau personnel on the complaint process, mediation, and IPR activities. Bureau

personnel shall be informed that IPR is the primary means for citizens to file complaints.

- D.** IPR, Committee and Bureau shall develop guidelines for situations when a commander or supervisor in a precinct is directly contacted by a complainant with a complaint. In general, they may intervene and attempt to resolve the complaint themselves, but they must also inform complainants that they can still file with IPR if they do not achieve satisfaction.

**3.21.190 Response of Chief.**

(Amended by Ordinance No. 186416, effective February 7, 2014.)

- A.** The Chief, after reviewing a report provided by IPR under City Code Section 3.21.170, shall respond promptly to IPR in writing, but in no event more than 60 days after receipt of the report. The response shall indicate what, if any, policy or procedural changes are to be made within the IAD or the Bureau.
- B.** If the Chief fails to respond within 60 days after receipt of the Committee Report, the Auditor shall place the matter on the Council Calendar, for consideration by City Council, within 15 days thereafter.

**3.21.200 Limitation on Power.**

The Committee and Director are not authorized to set the level of discipline for any member pursuant to any request for review made under this Chapter. However, this Section shall not be construed to limit the authority granted to City Council by the City Charter, City Code, state statutes, and other applicable law.

**3.21.210 Subpoenas.**

(Added by Ordinance No. 183657; Amended by Ordinance No. 186416, effective February 7, 2014.) IPR shall have the authority to issue subpoenas for the purpose of compelling witness testimony or the production of documents, photographs, or any other evidence necessary for IPR to fully and thoroughly investigate a complaint or conduct a review.

IPR personnel will not subpoena a sworn Bureau member employed by the Portland Police Bureau, but is authorized to direct Bureau members to cooperate with administrative investigations as described in Sections 3.21.120 and 3.21.220.

Any person who fails to comply with a subpoena will be subject to contempt proceedings as prescribed by State law; provided that such persons shall not be required to answer any question or act in violation of rights under the constitutions of the State or of the United States.

**3.21.220 Bureau Witnesses.**

(Added by Ordinance No. 186416, effective February 7, 2014.)

- A.** A Bureau employee shall attend investigative interviews conducted by IPR, cooperate with and answer questions asked by IPR during an administrative

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investigation of a member conducted by IPR. If an employee refuses to attend an investigative interview after being notified to do so by IPR or refuses to answer a question or questions asked by IPR during an investigative interview, the Police Chief or Police Commissioner shall direct the employee to attend the interview and answer the question or questions asked.

- B.** All IPR interviews of Bureau employees shall be conducted in conformance with legal requirements and collective bargaining provisions.
- C.** Prior to being interviewed, a Bureau employee will be:
  - 1.** Notified of the time, date, and location of the interview.
  - 2.** Informed of the right to bring a union representative to the interview.
  - 3.** Read a statement, issued under the authority of the Police Chief or Police Commissioner, that the employee is directed to attend the interview, cooperate during the interview and answer all questions fully and truthfully and, if the employee fails to attend the interview, cooperate during the interview or answer any questions fully and truthfully, the employee will be subject to discipline or discharge
  - 4.** Provided with any other information or protections required by any applicable collective bargaining agreement.
- D.** A representative of the Police Bureau shall attend IPR interviews of Bureau employees for the purpose of reading the statement referenced in Subsection C. and to provide any assistance required by IPR.



**CHAPTER 3.22 - PORTLAND FIRE &  
RESCUE**

(Chapter amended by Ordinance No. 180917,  
effective May 26, 2007.)

**Sections:**

- 3.22.010 General Organization.
- 3.22.020 Organized by Council - Subject to Civil Service.
- 3.22.030 Council Powers.
- 3.22.040 Care of Property by Council.
- 3.22.050 Duties of Chief Engineer.
- 3.22.060 Destroying Buildings to Check Fire.
- 3.22.070 Appointment of Temporary Employees.
- 3.22.080 Assignment of Disabled Members.
- 3.22.090 Rules and Regulations and Administrative Orders.
- 3.22.100 Uniforms.
- 3.22.110 Fire Suppression and/or Prevention Contracts.
- 3.22.120 Renewal Notices.
- 3.22.130 Contract Form to be Approved by City Attorney.
- 3.22.140 Mutual Assistance Agreements.
- 3.22.150 Use of Fire Boats for Pumping Water Out of Boats and Barges.
- 3.22.160 Fees for Pumping Water from Imperiled Vessels.
- 3.22.170 Distribution of Awards Earned by Members of Portland Fire & Rescue.
- 3.22.180 Forested and Wildland Interface Areas Fire Protection Plan.

**3.22.010 General Organization.**

(Amended by Ordinance Nos. 136677, 149110, 150993, 158149, 160883 and 182105, effective September 12, 2008.) Portland Fire & Rescue shall consist of the Chief Engineer (generally referred to as the Chief of the Bureau) and such other employees as the Council may provide. The mission of Portland Fire & Rescue shall be to safely protect life, property, and the environment by providing excellence in emergency services, training and prevention. Portland Fire & Rescue shall be comprised of the following divisions:

- A.** The Emergency Operations Division, which shall be responsible for the saving of life and property from fire or other disaster, emergency medical services, hazardous materials incidents, conducting a fire loss control program, training and other miscellaneous public services;
- B.** The Fire Prevention Division, which shall be responsible for fire prevention inspections and Code enforcement (Title 31), fire and life safety plans review, fire and arson investigation, enforcement of harbor regulations (Title 19), and conducting an educational fire prevention program;

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- C. The Management Services Division, which shall be responsible for budget and finance, long range capital planning and program development, special projects, manual and automated management information systems, planning and administrative support services, and supplying logistical support which shall include facility and vehicle maintenance, operational supplies and services;
- D. The Training and Safety Division, which shall be responsible for initial training of all newly hired firefighters, on-going training to maintain and improve the skills of all personnel, safety and risk management programs, accident and injury investigation and analysis, researching and developing new technologies and practices, and promoting training and educational opportunities for career development of all Bureau personnel.

**3.22.020 Organized by Council - Subject to Civil Service.**

(Amended by Ordinance No. 160883, effective June 9, 1988.) Portland Fire & Rescue of the City shall be organized by the Council and the members appointed as provided by the Charter, subject to the Civil Service rules of the Charter, and thereafter, subject to the restrictions contained in the Charter. All the powers of the City connected with and incident to the appointment, discipline, and government of its Portland Fire & Rescue shall be vested in the Commissioner In Charge of Portland Fire & Rescue .

**3.22.030 Council Powers.**

(Amended by Ordinance No. 160883, effective June 9, 1988.) The Council shall have the power and it is hereby made its duty to organize, govern, and conduct a Portland Fire & Rescue for effective service within the City, and to that end may authorize the appointment of a Chief Engineer (Fire Chief) and as many other officers and employees as in its opinion are necessary. It shall have the power to make, or power to delegate authority to the Commissioner In Charge of Portland Fire & Rescue to make, all necessary or convenient rules and regulations for the organization and conduct of the Bureau, for receiving and hearing complaints against any members, and for the removal or suspension of any member of the Bureau. The Civil Service rules prescribed in the Charter shall apply to every officer and member of the Bureau and shall govern the actions of the Council in its organization and government of the Bureau.

**3.22.040 Care of Property by Council.**

(Amended by Ordinance No. 160883, effective June 9, 1988.) The Council shall have the custody and management of all the public property, including the fire alarm telegraph, pertaining to Portland Fire & Rescue. It shall have power and authority, subject to the limitations and appropriations made and expenditures authorized by the Council, to purchase and acquire all necessary apparatus, including fireboats, engines, hose, hose carriages, and all other personal property which the exigencies of an efficient Portland Fire & Rescue may require. It shall have power and authority to sell and dispose at public sale under the provisions of the Charter relating to sales of public property of any portion of said personal property whenever the same is not required, or when it may be considered by the Council unfit for service in the Bureau. The proceeds of any such sale shall be paid by

the purchaser to the Treasurer of the City, who shall issue a proper receipt therefor, and all such monies shall be credited to the General Fund of the City.

**3.22.050 Duties of Chief Engineer.**

(Amended by Ordinance No. 160883, effective June 9, 1988.) The Chief Engineer (Fire Chief) shall diligently observe the condition of the apparatus and property and workings of the Bureau and make an annual report in writing to the Commissioner In Charge of Portland Fire & Rescue. The Chief Engineer (Fire Chief) shall also make recommendations from time to time with regard to the needs of the Bureau as he may deem proper.

**3.22.060 Destroying Buildings to Check Fire.**

The Chief Engineer, or, in his absence, any Assistant Chief Engineer, may during a conflagration, cause to be cut down, or otherwise removed, any buildings or structures for the purpose of checking the progress of such conflagration.

**3.22.070 Appointment of Temporary Employees.**

The Council, in case of any general conflagration or great emergency, may appoint such temporary employees as it may deem necessary and to whom Civil Service rules shall not apply.

**3.22.080 Assignments of Disabled Members.**

Members and officers of a higher grade who have done faithful service and have been disabled so as to unfit them for serving in the position occupied when so disabled may be assigned to other duties suitable to their physical abilities and shall always have preference in such assignments.

**3.22.090 Rules and Regulations and Administrative Orders.**

(Amended by Ordinance No. 160883, effective June 9, 1988.) The rules and regulations of Portland Fire & Rescue shall be promulgated by the Chief Engineer, subject to approval by the Commissioner In Charge of the Bureau, and the Chief Engineer shall have authority to issue general and special orders which shall be administrative in nature and shall be in addition to or supplemental to the rules and regulations as promulgated by the Chief Engineer and approved by the Commissioner In Charge. The rules and regulations and the general or special orders shall govern the conduct of the members of Portland Fire & Rescue and shall be designed for the efficient and effective functioning of the Bureau.

**3.22.100 Uniforms.**

(Amended by Ordinance No. 160883, effective June 9, 1988.) The following rules shall apply to uniforms for employees appointed to Portland Fire & Rescue who are members of the Fire and Police Disability and Retirement System:

- A. The Chief of the Bureau shall, subject to the approval of the Commissioner In Charge, prescribe specifications for fire uniforms and establish rules, regulations and conditions of wearing thereof.

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- B.** Upon report of the Commissioner In Charge of Portland Fire & Rescue, the Council shall designate which items of the uniform specified by the Chief of the Bureau under subdivision A above shall be furnished by the City to those employees required to wear the prescribed uniform in performance of their normal and usual fire duties. Each new employee shall be furnished a complete set of designated items of uniform. All other employees shall be furnished designated items of uniform on the basis of replacement when needed as determined by the Fire Chief. Items furnished by the City shall remain property of the City. The Fire Chief shall establish the rules, regulations and conditions for issuance and control thereof;
- C.** The Chief of the Bureau shall have the authority to designate duty assignments which require dress other than the prescribed uniform. For such designated duty, no items of uniform shall be furnished, and those employees affected shall receive an annual cash clothing allowance in lieu of the items of uniform furnished by the City. Clothing allowances shall be paid in accordance with Section 5.08.070.

**3.22.110 Fire Prevention and Suppression Contracts.**

(Amended by Ordinance Nos. 132356, 160840, and 160883, effective June 9, 1988.) The Commissioner In Charge of Portland Fire & Rescue and the City Auditor hereby are authorized to enter into contracts under the provisions of the State Rural Fire Protection District Act. Contracts authorized by this Section are subject to the following conditions:

- A.** The City shall provide both fire prevention and fire suppression services and will not provide fire suppression services only.
- B.** Payment for services by individuals and private organizations, having no tax levying authority under State law, shall be in advance, excepting those contracts in excess of \$25,000, which may be paid on a quarterly basis in advance. The Auditor shall execute such contracts only upon receipt of such payment;
- C.** Contracts with political subdivisions of the State shall be entered into only upon certification to the Auditor by the governing body of such political subdivision that there will be assessed upon the taxpayers of such political subdivision an amount not less than:

  - 1.** The contract price.
  - 2.** Unpaid balances, if any, owing the City on previous fire prevention and suppression contracts.
  - 3.** An estimated amount sufficient to compensate for the delinquencies, based upon previous experience.

The Auditor shall execute such contracts only upon receipt of such certification, unless specially authorized by ordinance. Payment upon such contracts shall be

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due in equal semi-annual installments on or before January 1 and June 1 of the year in which the contract is in effect;

**D.** As used in this Section:

1. **“Effective year”** means the fiscal year in which the contract is operative,
2. **“Previous year”** means the fiscal year first preceding the effective year.
3. **“Property owner’s assessed value”** means the assessed value in the previous year of land, improvements and personal property of the individual, organization or political subdivision contracting for City fire prevention and suppression, provided, however, that for political subdivisions, the City Auditor shall decrease such assessed value to adjust for changes in boundaries which become effective during the previous year as the result of annexations to the City. If property or a portion thereof, which is included in the determination of property owner’s assessed valuation, be outside Multnomah County, the assessed value shall be adjusted so as to bear the same ratio to true cash value as the ratio of assessed value to true cash value in Multnomah County, as determined by the State Tax Commission.
4. **“Assessed value of City property”** means the assessed value, in the previous year, of land, improvements and personal property in the City. The assessed value of those portions of the City lying outside Multnomah County shall be adjusted so as to bear the same ratio to true cash value as the ratio of assessed value to true cash value in Multnomah County, as determined by the State Tax Commission.
5. **“Cost to City taxpayers”** means the sum, to the nearest dollar, of:
  - a. Portland Fire & Rescue General Fund budget of the previous year,
  - b. A portion of the budget for Fire and Police Disability and Retirement Fund based upon the ratio of the number of firemen to the number of policemen employed on January 1 of the previous year, and;
  - c. Ten percent of the total of a. and b. to allow for payroll taxes and other expenditures outside the Portland Fire & Rescue General Fund budget;

**E.** The charge for City fire suppression and fire prevention services by contract authorized under this Section shall be computed by the following formula:

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(Cost To City Taxpayers)  
Multiplied by  
(Property Owner's Assessed Value)  
Divided by  
(Assessed Value of City Property)

- F. Each application for a fire suppression and/or fire prevention contract under this Section, and for renewal of a previous contract under this Section, shall be forwarded to the Chief of Portland Fire & Rescue. The Chief shall attach thereto his report upon the accessibility, water supply, distance from the City fire equipment, and other conditions pertaining to the area to be protected. The Chief shall then submit the application to the Commissioner In Charge of Portland Fire & Rescue for approval or disapproval before a contract is entered into.

**3.22.120 Renewal Notices.**

(Amended by Ordinance No. 132356, effective April 1, 1971.) On or near February 15 of each year the Auditor shall mail to each individual, organization and political subdivision then under contract with the City for fire suppression and/or fire prevention, letter stating the dollar amount the City will charge for renewal of the contract in the next succeeding fiscal year. This amount will be computed by the formula in Section 3.22.110. The letter, if directed to a political subdivision contracting under Section 3.22.110 B, will also state the amount owed the City and then in arrears, if any, under preceding contracts or the contract then in effect. Such letter shall not operate as a waiver or estoppel of the right of the City to refuse renewal of any contract under Section 3.22.110 B because of delinquencies or other good cause.

**3.22.130 Contract Form to be Approved by City Attorney.**

All contracts executed in accordance with the provisions of this Chapter shall be approved as to form by the City Attorney.

**3.22.140 Mutual Assistance Agreements.**

(Amended by Ordinance No. 160883, effective June 9, 1988.) The Mayor and the Commissioner In Charge of Portland Fire & Rescue may enter in agreements with agencies of the federal government and with political subdivisions of a state in which each party agrees to provide mutual assistance, in the form of men and equipment, in combating large fires within the boundaries of the other party or parties to such agreements.

**3.22.150 Use of Fire Boats for Pumping Water Out of Boats and Barges.**

(Amended by Ordinance No. 160883, effective June 9, 1988.) Upon the approval of the Chief of Portland Fire & Rescue and of the Commissioner In Charge, the fire boats of Portland Fire & Rescue may be used for the purpose of pumping out water from boats and barges which ply the Willamette or Columbia rivers.

**3.22.160 Fees for Pumping Water from Imperiled Vessels.**

(Amended by Ordinance No. 160883, effective June 9, 1988.) The fees for the emergency pumping services permitted by Section 3.22.150 shall be \$200 per hour. The owner, owner's agent, or master of the vessel requesting the nonfire emergency pumping service shall be advised that the pumping fee shall be \$200 per hour before a fire boat is dispatched to the emergency location. The fire boat officer, on arrival, shall obtain written agreement from the owner, owner's agent or master of the vessel in peril to pay the City \$200 per hour for salvage pumping before beginning operations. When the service of the fire boat is completed, the Chief of Portland Fire & Rescue shall certify to the Commissioner In Charge the exact time employed by the fire boat, and the Commissioner shall thereupon make a final charge for such service and require payment of such charge by the applicant. In the event salvage efforts fail, and if so recommended by the Chief Engineer (Fire Chief), the Commissioner In Charge of Portland Fire & Rescue may reduce or omit the pumping fee.

**3.22.170 Distribution of Awards Earned by Members of Portland Fire & Rescue.**

(Amended by Ordinance No. 160883, effective June 9, 1988.) All awards earned by members of Portland Fire & Rescue participating in Rose Festival activities shall go to the personnel and improvements of the fire engine quarters where such companies are housed.

**3.22.180 Forested and Wildland Interface Areas Fire Protection Plan.**

(Amended by Ordinance Nos. 160127, 160883, 168127 and 182389, effective January 2, 2009.)

**A. General Provisions.**

1. Title. This plan shall be known as the Forested and Wildland Interface Areas Protection Plan of the City.
2. Scope. This plan is primarily designed for the detection and suppression of forest and brush fires in forested, rural and urban areas of the City, and in all areas with which the City has contracted to furnish fire protection. Additionally, the fire suppression provisions of this plan may be activated when a fire outside the City becomes a threat to areas within.
3. Purpose. The purpose of this plan is to establish operational responsibilities of departments and bureaus of the Portland municipal government and supporting agencies within the scope of this plan.
4. Participation required. Participation is required of the Bureaus of Parks, Portland Fire & Rescue, Police, Waterworks, General Services and Maintenance Operations.
5. Participation voluntary. Voluntary participation by nongovernmental agencies, having emergency capabilities in areas of disaster relief, is

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authorized and encouraged; provided, however, that each voluntary agency shall submit an operational program to this plan as hereinafter provided.

**B. Plan Coordination.**

1. **Coordinator.** The Chief of Portland Fire & Rescue is known as the coordinator of this plan. He shall see that the operational programs of departments, bureaus and supporting agencies are submitted and made a part of this plan and kept current from year to year.
2. **Operational Programs.** The head of each participating bureau, office and/or agency shall submit an operation program to the Coordinator and keep him/her informed of changes at all times. Such operational programs shall be a part of this plan. They shall include the names and telephone numbers of key alerting personnel, a listing of other personnel by number and job classification, and a listing of all mobile and special equipment. Additionally, operational programs of Portland Fire & Rescue and the Bureau of Parks shall contain descriptive details of routine maintenance and regulatory responsibilities. The operational programs shall be respectively identified as follows:

PROGRAM I:	Bureau of Parks
PROGRAM II:	Portland Fire & Rescue
PROGRAM III:	Bureau of Police
PROGRAM IV:	Portland Water Bureau
PROGRAM V:	General Services
PROGRAM VIII:	Maintenance Operations
PROGRAM IX:	Reserved for Nongovernmental
PROGRAM X:	Reserved for Nongovernmental

**C. Command Responsibility for Fire Fighting.**

1. In all forested and rural areas lying within the City, and in all areas for which the City has a contract to furnish fire protection, overall command of fire fighting operations shall be the responsibility of the Chief of Portland Fire & Rescue.
2. Operating units will in all cases be under the direct control of their own commanders or foremen, superintendents, etc. However, such units will function in conformity with the tactical fire-fighting plan established by the sector commander to whom they are assigned.

**D. Activation and Response.**



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1. All participants and resources listed in the plan will be activated in accordance with the plan at the request of the Incident Commander.
  2. All participants in the plan will send liaison personnel to the field headquarters, support command headquarters, and the Emergency Operations Center as requested by the Incident Commander.
- E.** Personnel alerting.
1. The Bureau of Emergency Communications will initiate the alerting of participating services as outlined in the plan. The person contacted is then to complete the calls required by his/her bureau, office or agency.
  2. For the purpose of alerting as required in 1 above, the head of each participating service shall establish and maintain master-call lists or a key-alerting system.

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**CHAPTER 3.24 - PORTLAND WATER  
BUREAU**

(Chapter replaced by Ordinance No. 182053,  
effective August 15, 2008.)

**Sections:**

- 3.24.010 Organization.
- 3.24.020 Administration.
- 3.24.030 Customer Service Group.
- 3.24.040 Engineering Services Group.
- 3.24.050 Finance and Support Services Group.
- 3.24.060 Maintenance and Construction Group.
- 3.24.070 Operations Group.
- 3.24.080 Resources Protection and Planning Group.

**3.24.010 Organization.**

The Portland Water Bureau will be under the direction and control of the Administrator of the Portland Water Bureau. The Bureau will be charged with the responsibility for the finance, operation, maintenance and improvement of the City's water distribution system and will be made up of the work groups set forth in this Chapter. The Administrator shall coordinate and manage the Bureau's work groups in a manner that achieves the Bureau's mission and meets the goals established by the City Council.

**3.24.020 Administration.**

The Administrator's Office is responsible for policy planning, leadership, direction, and operation of the Bureau. The Administrator's Office also manages security for the distribution system, property management, organization development, Bureau human resources management, public information/involvement, long-range planning, government and community relations, legislative activities, and liaison with the Commissioner-in-Charge and City Council.

The Administrator of the Portland Water Bureau is authorized to enforce the provisions of Portland City Code Chapters 17.36 Sewer User Charges and 21.16 Rates and Charges addressing delinquent water, sewer and stormwater management charges, collections, adjustments and refunds.

The Administrator of the Portland Water Bureau may issue administrative rules and regulations pursuant to Section 21.24.080 Administrative Rules, Procedures and Forms.

**3.24.030 Customer Service Group.**

The Customer Service Group manages billing and collection services for the Portland Water Bureau including but not limited to, establishment of new accounts, close out of terminated accounts, meter reading, meter inspection services, leak repair notification, bill generation, payment application, remittance processing, approval of adjustments and refunds, delinquent account notification, collection of delinquent accounts by all legal means, termination of service for delinquency, resumption of water service and such other

duties as requested by the Administrator. The Group will also be responsible for responding to ratepayer inquiries, hearing appeals of the matters for which the Group is responsible and managing financial assistance programs.

When performing these responsibilities for the Bureau of Environmental Services, the Group's authority may be defined by written agreement and Administrative Rules.

**3.24.040 Engineering Services Group.**

The Engineering Services Group is responsible for planning, design, and construction of the Water System. In addition, this group serves as customer liaison for new service installation, drafting (including geographic information system), surveying, inspecting, and maintaining records on distribution system improvements. This group manages the Bureau's emergency management program. This group also has responsibility for developing facility standards, asset management, contract management, and developing and managing the Bureau's Capital Improvement Projects (CIP). Administrative oversight of the Hydroelectric Power function is conducted within this group.

**3.24.050 Finance and Support Services Group.**

The Finance and Support Services Group provides financial planning, rate setting, budgeting, accounting, payroll, auditing, financial analyses, and fiscal monitoring functions for the Bureau. It also provides clerical support for Bureau staff in the Portland Building. This includes the interfaces to City financial and personnel systems, and other Bureau-specific software systems.

**3.24.060 Maintenance and Construction Group.**

The Maintenance and Construction Group is responsible for repair, operation, and maintenance of the distribution system. Installation, operation, and maintenance functions related to mains, services, valves, hydrants, and leak detection are performed by this group. This work includes direct services and related support for control valves, carpentry, purchasing and stores operation, and loss control programs. This group manages the Bureau's two apprentice programs. The emergency crew provides response for outside normal work hour requirements, including main breaks and other emergency responses.

**3.24.070 Operations Group.**

The Operations Group is responsible for the operation and maintenance of water supply and treatment from the Watershed and the Columbia South Shore Well Field (CSSWF). This group operates and maintains the conduits, terminal storage reservoirs, tanks, pump stations, water treatment facilities, pressure regulators, an accredited Laboratory, and the Water Control Center. Work responsibilities include water quality protection, regulatory compliance, laboratory services, system metering, and addressing water quality customer complaints. This group is also responsible for the operation and maintenance of the decorative fountains.

**3.24.080 Resources Protection and Planning Group.**

The Resource Protection and Planning Group is responsible for Watershed and Columbia South Shore Well Field (CSSWF) management and coordination with federal, state and

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local partners to protect the quality of both of Portland's drinking water sources. This responsibility includes addressing legislative and regulatory issues and performing integrated resource planning, comprehensive planning on major issues, supply and demand analysis, and coordination of the Regional Water Providers Consortium. This Bureau work group is also responsible for the Bureau's business, residential and multifamily water conservation programs and Bureau sustainability efforts.

CHAPTER 3.26 - BUREAU OF PARKS

**Sections:**

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

**3.26.010 Organization Generally.**

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

**3.26.020 Executive and Clerical Division.**

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

**3.26.030 Park Maintenance and Operation Division.**

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

**3.26.040 Nursery and Planting Division.**

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

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

**3.26.050 Public Recreation Division.**

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

**3.26.060 Municipal Stadium Division.**

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

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

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

**3.26.090 Solar Friendly Trees.**

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

**CHAPTER 3.27 - PORTLAND PARKS AND  
RECREATION BOARD**

(Chapter added by Ordinance No. 176002, effective  
October 10, 2001.)

**Sections:**

- 3.27.010 Purpose.
- 3.27.020 Definitions.
- 3.27.030 Members and Terms.
- 3.27.040 Organization and Meetings.
- 3.27.050 Duties.
- 3.27.060 Staff Liaison and Support.

**3.27.010 Purpose.**

(Amended by Ordinance No. 190226, effective January 8, 2021.) The Portland Parks and Recreation (PP&R) Board is established for the following purposes: to ensure that the vision and recommendations of the Parks 2020 Vision, other PP&R strategic initiatives adopted by the City Council and the values of diversity, equity and inclusion are at the forefront of discussions about park and recreation issues and trends over time, in all areas of the city; to advocate for parks and recreation on a city and regional basis to ensure that parks, natural areas, open spaces and recreation facilities are advanced in city and regional planning and design; to provide continuity when transitions occur in the leadership of Portland Parks and Recreation and on the City Council; to provide a forum for public discussion and decision-making about park issues, bringing a city-wide and long-term perspective to neighborhood-based issues.

**3.27.020 Definitions.**

(Amended by Ordinance No. 190226, effective January 8, 2021.) As used in this Chapter, unless the context requires otherwise, the following definitions apply:

- A. “Board” means the Portland Parks and Recreation Board.
- B. “Board Year” means July 1 through June 30.
- C. “Bureau” or “Portland Parks and Recreation” means the Bureau of Parks and Recreation of the City of Portland, or whatever agency is given responsibility for the City’s system of parks and recreation.
- D. “Commissioner” means the Commissioner in Charge of Portland Parks and Recreation.
- E. “Council” means the City Council of the City of Portland, Oregon.

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- F. “Director” means the Director of Portland Parks and Recreation, or the Bureau head, however designated.
- G. “Parks 2020 Vision” means the Parks 2020 Vision adopted on October 10, 2001 and any amendments, extensions or replacements adopted by the Council.

**3.27.030 Members and Terms.**

(Amended by Ordinance Nos. 184647 and 190226, effective January 8, 2021.)

- A. Voting Members. The Portland Parks Board shall consist of a minimum of 9 and a maximum of 15 voting members appointed by the Mayor in consultation with the Commissioner and confirmed by the Council. Members shall serve without compensation for terms of 3 years. No member shall be appointed to more than two full consecutive terms, not to exceed 6 years of total consecutive service; provided that a member appointed initially to a term of less than 3 years may thereafter be re-appointed to two consecutive 3-year terms and completion of an unexpired term shall not apply to the 6 year cumulative limitation. A member otherwise may be re-appointed after at least 3 years following completion of the member’s two consecutive terms. Members are expected to bring a system-wide perspective to the Board and to reflect the demographic and geographic diversity of the City.
- B. Ex Officio Members. The Board may, in its discretion, appoint up to four ex officio members as, in the judgment of the Board, will assist it in carrying out its functions. Such ex officio members shall be appointed in a manner to be determined by the Board. Ex officio members shall not have the right to vote. Ex officio members shall not be subject to the term limitations of Subsection A. of this Section, but the Board may, by rule or regulation, provide for terms and other conditions of service of ex officio members as it may deem necessary or desirable.

**3.27.040 Organization and Meetings.**

(Amended by Ordinance No. 190226, effective January 8, 2021.) The Board shall adopt such rules of procedure as it deems necessary to the conduct of its duties. Every 2 years the Board shall elect a Chair and such other officers as the Board may from time to time establish. The Board shall meet at least quarterly and may meet more often. The Board Chair, in consultation with the Commissioner and the Director, shall set the agenda for Board meetings.

**3.27.050 Duties.**

The Board shall:

- A. Advise the Council, the Commissioner and the Director on policy matters pertaining to Portland Parks and Recreation, using the Parks 2020 Vision as its guide.



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- B.** Advise the Council, the Commissioner and the Director on the preparation and contents of the annual Portland Parks and Recreation budget request.
- C.** Review plans and policies, either existing or being developed, by other City bureaus, boards and commissions or by other government agencies, that affect parks and recreation in the City of Portland, and advocate for the advancement of parks, natural areas, open spaces and recreation facilities and services in City and regional planning and design.
- D.** Engage in such public outreach, education and advocacy, to the extent permitted by law, as the Board determines necessary or advisable in order to provide a forum for public discussion and decision-making about park and recreation issues.
- E.** Prepare and submit to the Council an annual report which shall summarize the Board's activities during the year and which shall identify the major issues facing Portland Parks and Recreation and the Board's recommendations for addressing them in the coming year.

**3.27.060 Staff Liaison and Support.**

The Director shall be the staff liaison to the Board, and shall, to the extent budgeted funds are available therefor, provide the Board with staff assistance necessary to the discharge of its duties.

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**CHAPTER 3.28 - BUREAU OF HEALTH**

**Sections:**

- 3.28.010 Transfer of Functions.
- 3.28.020 Executive and Clerical Division.
- 3.28.030 Communicable Disease Control Division.
- 3.28.040 Tuberculosis Control Division.
- 3.28.050 Venereal Disease Control Division.
- 3.28.060 Laboratory Division.
- 3.28.070 School Hygiene Division.
- 3.28.080 Emergency Hospital Division.
- 3.28.090 Pure Food Sanitation Division.
- 3.28.100 Division of Mental Health.
- 3.28.110 Division of Home Health Care.

**3.28.010 Transfer of Functions.**

During the term of a contract presently existing between the City and Multnomah County whereby functions of the City's Bureau of Health are being performed by the County, and the County Health Officer is acting as the City Health Officer, and all Bureau of Health Employees, are now County employees, the Multnomah County Department of Medical Services shall perform the functions heretofore performed by divisions of the City Health Bureau, as set forth in this Chapter.

**3.28.020 Executive and Clerical Division.**

The Executive and Clerical Division shall maintain the central office and all necessary records thereof, including all statistics relating to births and deaths as required by law.

**3.28.030 Communicable Disease Control Division.**

The Communicable Disease Control Division shall exercise the power of quarantine and detention and shall adopt such other measures as will prevent the spreading or aid in the prevention of communicable diseases such as typhoid fever, smallpox, tuberculosis, scarlet fever and others.

**3.28.040 Tuberculosis Control Division.**

The Tuberculosis Control Division shall provide clinical services for diagnosis and a visiting nurse service to make sure that the lessons of prevention are carried out by the patients under actual home conditions.

**3.28.050 Venereal Disease Control Division.**

The Venereal Disease Control Division shall provide clinical services for diagnosis, control, and prevention of venereal disease.

**3.28.060 Laboratory Division.**

The Laboratory Division shall conduct tests and examinations for bacteria content and such other laboratory services as the other divisions request.

**3.28.070 School Hygiene Division.**

The School Hygiene Division shall be responsible for the prevention of communicable diseases in the schools through promoting vaccination against smallpox and the use of toxoid against diphtheria, and through ascertaining that children sick with communicable diseases are excluded. This Division shall also conduct examinations of school children at regular intervals for the purpose of discovering defects which may be remedied and shall notify the parents regarding the need for attention to vision, infections, nutrition, and postural defects and diseases.

**3.28.080 Emergency Hospital Division.**

The Emergency Hospital Division is designed to take care of those who are injured or who are taken sick suddenly, and have no means of providing for themselves the medical and hospital care they need, or who are ineligible for care by Multnomah County because they are not residents.

**3.28.090 Pure Food Sanitation Division.**

The Pure Food and Sanitation Division shall be divided into the following Sections:

- A. The Milk Inspection Section, which shall provide inspection of the milk supply, including the source, transportation, handling, and preparation for distribution;
- B. The Meat Inspection Section, which shall provide inspection of meat in an effort to keep unwholesome meats and meat products from the market;
- C. The Sanitation Inspection Section, which shall provide general sanitation inspection services, such as restaurant inspection, food inspection, market inspection, food handler's examinations, inspections of hospitals and certain manufacturing plants, and the inspection of housing conditions, including ventilation, lighting and sanitation fixtures.

**3.28.100 Division of Mental Health.**

The Division of Mental Health shall provide psychiatric consultation with school children and adults, assist the emergency hospital in the handling of persons with mental health problems, act as liaison between the Bureau of Health and mental health institutions and organizations, and generally provide a mental health service for the City.

**3.28.110 Division of Home Health Care.**

The Division of Home Health Care shall provide the limited nursing services such as but not limited to prescribed treatment, application of dressings, irrigations, exercises and baths and home health aide services including but not limited to nonprofessional care of ill or injured persons, food marketing or other needed shopping or errand, preparation and serving of meals and light housekeeping.

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**CHAPTER 3.30 - BUREAU OF  
DEVELOPMENT SERVICES**

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

**Sections:**

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

**3.30.005 Organization.**

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

**3.30.010 Duties of the Bureau of Development Services.**

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

- A.** The administration and enforcement of provisions of the Tree Regulations, Title 11, as further specified in that Title.
- B.** The administration and enforcement of:
  - 1.** Building Regulations, Title 24.
  - 2.** Plumbing Regulations, Title 25.
  - 3.** Electrical Regulations, Title 26.
  - 4.** Heating and Ventilating Regulations, Title 27.
  - 5.** Floating Structures, Title 28.
  - 6.** Property Maintenance Regulations, Title 29.

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

**3.30.020 Responsibility for the Development Services Center and Development Review.**  
(Amended by Ordinance No. 176955, effective October 9, 2002.)

- A. The Bureau of Development Services shall be responsible for the operation and management of the City's Development Services Center.
- B. The Bureau of Development Services has management responsibility for assigned personnel through direct assignment or through interagency agreements, and manages the daily operation of the Center.

**3.30.030 Development Review Advisory Committee.**  
(Amended by Ordinance Nos. 176955, 178954, 184046 and 184183, effective November 26, 2010.)

- A. **Purpose.** The Development Review Advisory Committee is a citizen advisory body, representing those with interests in the outcome of policies, budgets, regulations, and procedures that affect development review processes. The purpose of the Committee is to foster a timely, predictable and accountable development

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review process that implements the City's goals for land use, transportation, housing, economic development, neighborhood livability and the environment. The Committee advocates for and supports consistent and fair application and implementation of regulations. The Committee provides public input into the development review process by:

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

**B. Membership.** The Development Review Advisory Committee shall consist of seventeen members. The members shall be appointed by the Commissioner-in-Charge of the Bureau of Development Services and confirmed by the City Council. The members shall be selected to provide representation of those persons concerned about planning, design and development. The areas of interest of members shall include, but not be limited to, development, planning, construction contracting, public works, design professions, neighborhood interests, business interests, historic preservation, environmental organizations, and institutional properties. Members shall be appointed so that the Committee consists of one member from organizations representing each of the following groups, or if organizations do not exist, an individual advocate for the representative group will be appointed:

1. Frequent development review customers
2. Citywide neighborhood interests
3. Design professionals

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

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

**D. Meetings, Officers, and Subcommittees.**

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

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2. The officers of the Committee shall consist of a Chairperson and a Vice-chairperson. The chairperson shall be responsible for conducting the meetings of the committee. The vice chairperson shall act as chair when the chairperson is not available.
  3. The Development Review Advisory Committee may divide its members into subcommittees which are authorized to act on behalf of the committee for an assigned purpose. Subcommittee actions require the affirmative vote of at least three members.
- E. Attendance.** Members of the Development Review Advisory Committee are expected to attend each meeting of the committee. The Commissioner-in-Charge may replace any member who accrues unexcused absences from three or more consecutive meetings or more than 50 percent of the meetings in any year.
- F. Compensation.** Development Review Advisory Committee members shall serve without compensation.

**3.30.040 Administration and Enforcement.**

(Amended by Ordinance Nos. 175327, 176955, 183793, 186564, 186736 and 189413, effective March 6, 2019.) In order to carry out the duties as set forth in Section 3.30.010, the Director of the Bureau of Development Services may:

- A.** Adopt, amend and repeal administrative rules, policies, procedures and forms for the enforcement of applicable Code provisions and laws.
- B.** Establish enforcement fees or penalties for non-compliance.
- C.** Establish enforcement priorities based on the number of budgeted enforcement personnel, public safety and welfare factors, and any priorities established by City Council.
- D.** Gain compliance by:
  1. Instituting an action before the Code Hearings Officer in the manner provided for by Title 22 of this Code.
  2. Causing appropriate action to be instituted in a court of competent jurisdiction.
  3. Issuing a code violation citation directly to the contractor or person responsible for carrying out the work. Any person receiving a citation for violating the provisions of the City Code administered by the Bureau of Development Services shall be subject to a fine of up to \$1,000 for each citation issued.



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4. Taking other lawful action.
  5. Revoking a Type B home occupation permit for failure to comply with the regulations of City Code Chapter 33.203 or revoking a Type A accessory short-term rental permit for failure to comply with the regulations of City Code Chapter 33.207 by using the following procedures:
    - a. If the Director determines that cause for revocation of a permit exists, the Director shall provide written notice thereof to the permittee. The notice shall contain a brief description of the facts supporting the revocation, the date the revocation shall become final and a notice of the permittee's right to appeal the revocation.
    - b. The notice shall be mailed by certified mail, return receipt requested, and regular mail to the permittee. The notice shall be effective upon three days after mailing.
    - c. The revocation shall become final and effective ten days after the notice is effective, unless an appeal is filed.
    - d. Any permittee whose permit has been revoked may appeal the revocation to the Code Hearings Officer pursuant to the provisions of City Code Chapter 22.10. The filing of an appeal shall stay the effective date of the revocation until the appeal is determined in a final decision by the Code Hearings Officer.
- E.** Impose fees or penalties for non-compliance, provide notification, and allow for appeals by:
1. Initiating the notification procedures provided in Section 29.60.050.
  2. Imposing monthly enforcement fees or penalties for each property that meets the following conditions:
    - a. The property is the subject of a notice of violation by the Bureau of Development Services; and
    - b. A response period of 30 days has passed since the effective date of the initial notice of violation; and
    - c. The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
  3. Doubling the penalties if the violations are not corrected within three months from the initial notice of violation.

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4. Imposing an additional penalty as set forth in the Enforcement Fee and Penalty Schedule against any property for which a code enforcement proceeding is initiated before the Code Hearings Officer pursuant to the provisions of Title 22 of this Code.
5. All required fees or penalties are listed in the Enforcement Fee and Penalty Schedule adopted by City Council. Fees or penalties may be updated annually or on an as needed basis. The approved Enforcement Fee and Penalty Schedule will be available at the Bureau of Development Services Center and on the bureau's Web site.
6. When a property meets the conditions for charging any Council approved fee or penalty for noncompliance, the Director shall file a statement with the Revenue Division identifying the property, the amount of the fee or penalty and the date upon which the charge should be assessed. The Revenue Division shall notify the property owner of the amount of the assessed fees and penalties, and a 10 percent Revenue Division charge. The Revenue Division shall record the total amount as a lien in the Docket of City Liens. The Revenue Division shall maintain the lien record until the lien and all associated interest and costs are paid in full, and the Director certifies that all violations listed in the original or subsequent notice of violation have been corrected.
7. Providing for administrative procedures as set forth in Subsections 29.70.010 C. through E.
8. Providing for administrative review and the opportunity for appeal to the Code Hearings Officer as set forth in Section 29.80.010.
9. Allowing exceptions as provided in Section 29.60.100.

**3.30.045 Administrative Rulemaking Procedures.**

(Added by Ordinance No. 186564; amended by Ordinance No. 189078, effective July 18, 2018.)

- A. The Director has been delegated the authority to adopt and administer administrative rules appropriate to perform the duties set forth in Section 3.30.010 of this Title. Such administrative rules shall be adopted according to the procedures in this Section.
- B. Permanent rules.
  1. Prior to the adoption of a permanent rule, the Director shall:
    - a. Publish a notice in a newspaper of general circulation in the City. The notice must be published not less than thirty days before

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adoption of the administrative rule. The notice shall include the place and time of a proposed public hearing; a brief description of the subjects covered by the proposed rule; the final date for acceptance of written comments; the location to submit comments; and the location where copies of the full set of the proposed rules may be obtained. A copy of the notice will be provided to the Office of Community & Civic Life at least thirty days before adoption. The Director is only required to hold the public hearing if a written request is filed seeking a hearing.

- b.** During the public review process, the Director shall hear testimony and receive written comments regarding the proposed rules.
- c.** The Director will review the testimony and comments and may either adopt the proposed rule, modify it or reject it.
- d.** If the Director makes a substantial modification to the proposed rule, the Director may provide additional time for public review and comment prior to adoption.

- 2.** Unless otherwise stated, all rules will be effective upon adoption by the Director.

**C.** Interim rules.

- 1.** The Director may adopt an interim rule without prior notice upon a finding that a failure to act promptly will result in prejudice to the public interest.
- 2.** Interim rules will be effective for a period of not longer than 180 days.
- 3.** The Bureau of Development Services shall post public notice of the interim rule not more than 30 days after adoption by posting on its website and shall send notice to the Office of Community & Civic Life. Such notice shall identify the location at which copies of the full set of the interim rules may be obtained.

- D.** All final and interim rules shall be filed in the office of the Director. Copies of all final and interim rules will be made available to the public at the Development Services Center.

**3.30.050 Special Jurisdiction.**

(Amended by Ordinance Nos. 176585, 176955 and 182456, effective December 24, 2008). The Bureau of Development Services shall have authority to enforce Section 14A.20.070, and Subsections 16.10.200 L., 16.20.120 H., and 16.20.130 I., 16.20.160 and Sections 16.20.170, 16.70.450 and 16.70.800. The Bureau shall have authority to issue parking

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citations and order the towing and storage and/or removal of such vehicles and objects. In addition, violations of Section 16.20.160 are also subject to the Bureau of Development Services enforcement remedies as described in Subsection 3.30.040 C.

**3.30.060 Nuisance Abatement Contracts.**

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

**3.30.070 Inspections.**

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

- 1.** Building Regulations means any city code title listed in 3.30.010, or any other safety or health statute, ordinance, regulation, rule, standard or order the Director is authorized to enforce.
- 2.** Property means real property and all improvements or structures on real property, from property line to property line.

**B.** Warrants. Whenever an inspection is necessary to enforce any of the provisions authorized by this Title, or whenever the Director has reasonable cause to believe that there exists in any building or upon any property any condition which makes such property substandard as defined in any building regulations, the Director may request any Circuit Court judge to issue an inspection warrant for the inspection or investigation of any building or upon any property as required or authorized by city code or by statute. The inspection warrant is an order authorizing a safety or health inspection or investigation to be conducted at a designated building or property.

**C.** Grounds for Issuance of Inspection Warrants; Affidavit.

- 1.** Affidavit. An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the inspection or investigation, the building or property to be inspected or investigated, and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.

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2. Cause. Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to any building or upon any property, or there is cause to believe that a condition of nonconformity with any building regulations exists with respect to the designated property, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with any building regulations.

**D. Procedure for Issuance of Inspection Warrant.**

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

**E. Execution of Inspection Warrants.**

1. Occupied Property. Except as provided in subsection 2. of this section, in executing an inspection warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.
2. Unoccupied Property. In executing an inspection warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection 1. of this section, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the search warrant shall be conspicuously posted on the property.
3. Police Assistance. In issuing an inspection warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the

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described property to remove any person or obstacle and assist the building inspector or representative of the bureau inspecting the property in any way necessary to complete the inspection.

4. Return. An inspection warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 5 working days from its date of execution, unless such judge before the expiration of such time extends the time for five days. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

**3.30.080 Stop Work Orders.**

(Amended by Ordinance Nos. 176955, 186564 and 187432, effective December 4, 2015.)

- A. When it is necessary to obtain compliance with this Title, or any violations of provisions administered by the Bureau of Development Services, the Director may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If the Director issues a stop work order, activity subject to the order may not resume until such time as the Director give specific approval in writing. The stop work order will be in writing and will include:
  1. The date of the order is issued;
  2. Permit or registration number, where applicable;
  3. Site address, legal description or project location that is subject to the stop work order;
  4. A description of violations observed; and
  5. The conditions under which the work may resume.
- B. The stop work order will be posted by the Director at a conspicuous location at the site. In addition, a copy of the order will either be personally delivered or sent to the property owner (and any person authorized to act on the owner's behalf, if identified) by regular first-class mail.
- C. It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order.
- D. A stop work order is effective upon posting.
- E. When an emergency condition exists, the Director may issue a stop work order orally. The Director will then issue a written notice as provided under Section A., above, within one working day.

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- F.** The Director may issue a stop work order for work commenced without a required permit.
- G.** The Director may impose a penalty as set forth in the Enforcement Fee and Penalty Schedule adopted by the City Council when a stop work order is issued. The stop work order penalty may be assessed daily for each day the violation or condition giving rise to the order continues.
- H.** Review of Stop Work Order by the Director.
  - 1.** If a property owner (and any person authorized to act on the owner's behalf) has received a stop work order as described in this Section and the property owner (and any person authorized to act on the owner's behalf) believes the order has been issued in error, the property owner (and any person authorized to act on the owner's behalf) may request that the order be reviewed by the Director. The property owner (and any person authorized to act on the owner's behalf) must submit a written request to the Director within 15 calendar days of the date of the order. The written request shall be submitted together with all evidence that supports the request. Work subject to a stop work order may not be resumed until approved according to Subsection A. of this Section. Following review, the Director will issue a written determination. The Director's determination will be served on the property owner (and any person authorized to act on the owner's behalf) by regular mail.
  - 2.** A property owner (and any person authorized to act on the owner's behalf) may appeal the Director's written determination to the Code Hearings Officer in accordance with Portland City Code Chapter 22.10.
  - 3.** Nothing in this Chapter limits the authority of the Director to initiate a code enforcement proceeding under Title 22.

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**CHAPTER 3.32 - BUREAU OF LICENSES**

(Chapter repealed by Ordinance No. 179566,  
effective October 1, 2005.)



**CHAPTER 3.33 - BUREAU OF PLANNING  
AND SUSTAINABILITY**

(Chapter added by Ordinance No. 182671, effective  
May 15, 2009.)

**Sections:**

- 3.33.010 Purpose.
- 3.33.020 Organization.
- 3.33.030 Functions.

**3.33.010 Purpose.**

The purpose of this Chapter is to describe the organization and functions of the Bureau of Planning and Sustainability.

**3.33.020 Organization.**

The Bureau is administered by the Commissioner in charge and led by the Director of Planning and Sustainability. The organizational structure of the Bureau shall be determined by the Director of the Bureau after consultation with the Commissioner in charge.

**3.33.030 Functions.**

(Amended by Ordinance Nos. 184046 and 188177, effective January 1, 2018.) The Bureau of Planning and Sustainability is responsible for planning, implementing, and managing complex programs and projects related to sustainability, urban design, land use, and long range planning.

The Bureau of Planning and Sustainability:

- A. Works with the City Council, Planning and Sustainability Commission, and the community to define shared values and develop a cohesive vision for the future of Portland;
- B. Maintains, modifies, and updates a Comprehensive Plan to guide the development and redevelopment of the city;
- C. Ensures that City policies, implementation tools, and zoning designations are consistent with the Comprehensive Plan, the Metro Functional Plan, Statewide Planning Goals, and other requirements. Implementation tools include Title 33, Planning and Zoning, portions of other City Titles, and a range of programs and policies;
- D. Maintains, modifies, and updates Title 33, Planning and Zoning, and the City Zoning Map;

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- E.** Develops, modifies and updates city sustainability principles, climate protection strategies, and green building and other sustainability policies and programs including sustainable government, renewable energy, energy efficiency, sustainable industries, and sustainable food systems; and evaluates the implementation and effectiveness of these policies and programs;
- F.** Develops, modifies and updates economic, environmental, housing, historic preservation, and community development policies and programs; updates demographic data; advocates for and advances quality sustainable urban design; works to ensure natural resource enhancement; and supports thriving neighborhoods and business communities; and evaluates the implementation and effectiveness of these policies and programs;
- G.** Convenes meetings of the Planning and Development Directors to coordinate planning and development activities of the City of Portland;
- H.** Provides City input into and coordination with regional and statewide planning and development activities;
- I.** Administers the City's solid waste and recycling rules and programs;
- J.** Provides support for:
  - 1.** The activities of the Planning and Sustainability Commission;
  - 2.** The legislative activities of the Portland Historic Landmarks Commission and the Portland Design Commission.
  - 3.** The activities of the Community Involvement Committee.
- K.** Carries out other tasks and functions as required by the City Council or Commissioner in Charge.

**CHAPTER 3.34 - BUREAU OF PURCHASES  
AND STORES**

(Chapter repealed by Ordinance No. 174410,  
effective May 3, 2000.)

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**CHAPTER 3.36 - PORTLAND HOUSING  
BUREAU**

(Chapter added by Ordinance No. 186028, effective  
May 15, 2013.)

**Sections:**

- 3.36.010 Purpose.
- 3.36.020 Organization.
- 3.36.030 Functions.

**3.36.010 Purpose.**

The purpose of this Chapter is to describe the duties and responsibilities of the Portland Housing Bureau.

**3.36.020 Organization.**

The Portland Housing Bureau is administered by the Commissioner-in-Charge and led by the Director of the Portland Housing Bureau. The organization is structured to carry out its functions.

**3.36.030 Functions.**

The Portland Housing Bureau is responsible for housing policy, its implementation, and the distribution and oversight of public and other funds that address the housing interests of the City, and related programs and services.

**A. The Portland Housing Bureau:**

1. Works with the City Council, other bureaus, and the community to develop a vision for housing in the City of Portland;
2. Convenes government, community and stakeholders to coordinate planning for addressing homelessness, housing, and related activities;
3. Develops, modifies, evaluates and updates City policy in accordance with planning priorities;
4. Develops, modifies and updates community programs related to housing;
5. Distributes funds in accordance with planning, policy and program priorities to advance the City's interests in housing;
6. Monitors the City's investment in Portland's affordable housing infrastructure for compliance with funding goals and the proactive management of the assets;

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7. Monitors programs funded through the Bureau for compliance with funding goals;
8. Identifies the resources required to support the City's housing policies, programs, and priorities;
9. Provides support for the Portland Housing Advisory Commission (Chapter 3.38);
10. Carries out other tasks and functions as required by the City Council or Commissioner-in -Charge.

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**CHAPTER 3.38 - PORTLAND HOUSING  
ADVISORY COMMISSION (PHAC)**

(Chapter replaced by Ordinance No. 184329,  
effective December 15, 2010.)

**Sections:**

- 3.38.010 PHAC Established.
- 3.38.020 PHAC Mission.
- 3.38.030 Duties.
- 3.38.040 Membership.
- 3.38.050 Staffing.
- 3.38.060 Consolidated Plan Consortium.
- 3.38.070 Cooperation.

**3.38.010 PHAC Established.**

Upon adoption of this ordinance by the City of Portland, the Portland Housing Advisory Commission (PHAC) is established. The PHAC is designated as the primary public forum for discussion of housing policy, strategy, and resources in the City of Portland.

**3.38.020 PHAC Mission.**

The mission of the PHAC is to advise the Director of the Portland Housing Bureau (PHB), the Housing Commissioner, and the Portland City Council on housing and homelessness policy, strategy, and resource issues, promote improvements within the Portland Housing Bureau and the larger housing system, highlight opportunities for influence between the City housing system and other systems, as well as provide a forum for public input on housing and homelessness issues.

**3.38.030 Duties.**

The PHAC is delegated to carry out the following functions:

- A.** Housing Policy and Planning.
  - 1. Provide a sounding board on Portland housing policy issues.
  - 2. Promote improvements within PHB.
  - 3. Identify opportunities where PHB might influence the larger housing system to become more streamlined and to better align system resources, to support PHB's mission.
  - 4. Advise PHB on City priorities for affordable housing development.
  - 5. Monitor and periodically recommend updates to PHB's Strategic Plan.

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6. Monitor and annually recommend updates to the Consolidated Plan Priorities for allocation of federal housing and community development resources.
  7. Recommend annual production and performance goals to carry out PHB's Strategic Plan and the Consolidated Plan.
  8. Press PHB to implement its commitment to equity in all facets of its work.
- B. Budget Review and Recommendations.**
1. Function as the Budget Advisory Committee for the Portland Housing Bureau.
  2. Assist PHB to align its resources from all sources to its mission and priorities.
  3. Identify opportunities for PHB to influence other public agency budgets and proposed work programs in furtherance of its mission.
- C. Resource Development.** Assist PHB to identify and recommend ways to increase the resources available to maintain and expand the supply and availability of affordable housing and necessary support services through new initiatives and programs.
- D. Program Development and Evaluation.**
1. Advise PHB on the effectiveness of housing programs at meeting PHB's mission.
  2. Advise on strategies for investment of public resources in furtherance of the PHB's mission.
- E. Public-Private Partnerships.**
1. Advise PHB on strategies to improve access to public and private sources of financing for affordable housing initiatives. Sources of financing include banks, philanthropic institutions and other socially-motivated investors, the State Housing Trust Fund, Block Grant and entitlement funders, and bond issuing agencies.
  2. Foster housing production by identifying opportunities to streamline the regulatory process.

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3. Actively encourage the support, personal commitment, and participation of highly respected community leaders in furthering the City's affordable housing agenda.

**F. Community and Intergovernmental Relations.**

1. Provide a forum for members of the community to provide comment about community needs and priorities.
2. Advise PHB on its legislative agenda to increase federal and state support for housing and supportive services.
3. Advise PHB on opportunities to coordinate regional housing policy with the Metropolitan Service District and other local governments.
4. Advise PHB on opportunities to coordinate policy development with local housing and social service groups.
5. Assist PHB to extend and deepen its community partnerships.
6. Assist PHB to integrate the perspectives of Urban Renewal Advisory Committees (URACs), and advise it on other ways it can engage the URACs to inform its broader agenda.
7. Periodically review PHB's broader public involvement strategy and implementation to make sure that community members and stakeholders have many opportunities to participate in PHB's work.
8. Advise PHB on its external communications strategy to make sure that it supports PHB's mission.
9. Periodically review PHB's information and referral strategy to make sure that it operates effectively and recommend changes.

**3.38.040 Membership.**

- A. The PHAC shall consist of at least twelve and no more than fifteen members.
- B. The City of Portland shall appoint all members.
- C. Membership appointment shall achieve a balanced citizen-based perspective embracing a high level of knowledge of and expertise in market-rate and rent-restricted housing development and finance, asset management, homeownership, and housing access and stabilization services.



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- D.** Membership appointment shall take into account the income, racial, ethnic, cultural, and geographic diversity of the community.
- E.** Members will be expected to transcend their individual interests and affiliations to focus on the big picture.
- F.** For the initial appointments to PHAC, the following terms will apply: six members shall be appointed for a term of two years; and six for a term of three years.
- G.** All subsequent appointments to the PHAC shall be for terms of two years.
- H.** Members appointed for one two-year term shall be eligible to renew for one additional two-year term.
- I.** Members shall serve without compensation. However, the City may authorize reimbursement of the reasonable expenses of the members for carrying out the work of the PHAC.
- J.** The PHAC shall adopt rules of procedure (bylaws) as necessary for the governance of its proceedings.

**3.38.050 Staffing.**

PHB staff shall be provided for the ongoing functions of the PHAC. The Bureau shall provide notice of PHAC meetings to liaison staff representing the other key implementing and policy agencies in the local housing delivery system.

**3.38.060 Consolidated Plan Consortium.**

The Portland Housing Bureau shall continue to lead the Portland Consortium that includes the City of Gresham and Multnomah County, for the purpose of applying for federal housing and community development entitlement funds, and funding for homeless programs and services. PHB shall also continue to lead the same Consortium in preparing the Analysis of Impediments to Fair Housing and its periodic updates. PHB shall continue to provide staffing for these efforts, according to funding agreements reached among the participating jurisdictions.

**3.38.070 Cooperation.**

All city boards, bureaus, and agencies of any kind shall cooperate with the PHAC and shall provide information at the Commission's request.

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**CHAPTER 3.40 - BUREAU OF GENERAL  
SERVICES**

(Chapter repealed by Ordinance No. 174410,  
effective May 3, 2000.)

**CHAPTER 3.44 - BUREAU OF CIVIC  
AUDITORIUM**

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

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**CHAPTER 3.46 - BUREAU OF INSECT  
CONTROL**

**Section:**

3.46.010 County to Perform Duties.

**3.46.010 County to Perform Duties.**

During the terms of a contract presently existing between the City and Multnomah County whereby functions of the City's Bureau of Insect Control are being performed by the County and all Bureau of Insect Control employees are now County employees, the Multnomah County Department of Medical Services shall perform the functions heretofore performed by the Bureau of Insect Control.

**CHAPTER 3.52 - BUREAU OF COMPUTER  
SERVICES**

(Chapter repealed by Ordinance No. 174410,  
effective May 3, 2000.)

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**CHAPTER 3.53 - BUREAU OF RISK  
MANAGEMENT**

(Chapter repealed by Ordinance No. 174410,  
effective May 3, 2000.)

**CHAPTER 3.54 - LOSS CONTROL AND  
PREVENTION**

(Chapter replaced by Ordinance No. 190172,  
effective November 20, 2020.)

**Sections:**

- 3.54.010 Definitions.
- 3.54.020 OMF Risk Management Division Responsibility and Authority.
- 3.54.030 Bureau Responsibility and Authority.

**3.54.010 Definitions.**

Unless the context indicates otherwise, words used in this Chapter shall have the following meanings:

- A. **"Bureau"** means all City bureaus or offices, including the offices of elected officials.
- B. **"Loss Prevention Policy"** and **"Policy"** mean a Citywide policy for bureaus to identify risks related to occupational health and safety, including workers' compensation exposures, achieve regulatory compliance, and promote a culture of safety.

**3.54.020 OMF Risk Management Division Responsibility and Authority.**

The OMF Risk Management Division shall have the following responsibility and authority in the area of City loss control and prevention:

- A. Develop a Loss Prevention Policy that outlines expectations and create a template to assist bureaus in developing a Loss Prevention Plan;
- B. Review bureau Loss Prevention Plans based on the Loss Prevention Policy and template;
- C. Advise and assist bureaus in the completion and implementation of their Loss Prevention Plans; and
- D. Monitor bureau loss prevention efforts and report information on City accomplishments to City leadership.

**3.54.030 Bureau Responsibility and Authority.**

Each City bureau shall have the following responsibility and authority:

- A. Develop a written Loss Prevention Plan using Risk Management's template. Utilize Risk Management's consulting services to assist with plan development, as necessary. Provide the proposed plan to Risk Management for review;

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- B.** Implement the bureau's Loss Prevention Plan and track bureau loss prevention effort accomplishments using Risk Management's reporting form; and
- C.** Annually review the bureau's Loss Prevention Plan. Consult with Risk Management to update the Plan in accordance with the Loss Prevention Policy.



**CHAPTER 3.57 - INDUSTRIAL INJURY  
RETURN TO WORK POLICY**

(Chapter repealed by Ordinance No. 176302,  
effective April 5, 2002.)

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**CHAPTER 3.58 - VEHICLE LOSS CONTROL  
POLICY**

(Chapter repealed by Ordinance No. 176302,  
effective April 5, 2002.)

**CHAPTER 3.60 - ZOO COMMISSION**

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

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**CHAPTER 3.62 - BOXING COMMISSION**

**Section:**

3.62.010 Certain City Officials to Render Certain Services.

**3.62.010 Certain City Officials to Render Certain Services.**

(Amended by Ordinance No. 173369, effective May 12, 1999.) The Council finds that by the provisions of ORS Chapter 463 certain functions are to be performed by the Council and certain City officers; now, therefore, the City officials are hereby permitted and authorized to exercise the functions therein stated for and on behalf of the State as herein provided.

**CHAPTER 3.64 - ART COMMISSION**

(Chapter repealed by Ordinance No. 136980,  
effective July 13, 1973.)

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**CHAPTER 3.66 - CIVIC AUDITORIUM  
ADVISORY COMMITTEE**

(Chapter repealed by Ordinance No. 160034,  
effective August 13, 1987.)

**CHAPTER 3.67 - PERFORMING ARTS  
ADVISORY COMMITTEE**

(Chapter added by Ordinance No. 152285, effective  
September 17, 1981.)

**Sections:**

- 3.67.010      Creation and Organization.
- 3.67.020      Procedure and Rules of Committee.
- 3.67.030      Duties.

**3.67.010      Creation and Organization.**

(Amended by Ordinance No. 153332, effective June 9, 1982.) There hereby is created an Advisory Committee to the Commissioner In Charge of the Portland Center for the Performing Arts to be known as the Performing Arts Center Advisory Committee. The Committee shall consist of 13 voting members who shall serve without compensation. The Commissioner In Charge shall appoint the members and shall designate the Chairman. Each member shall serve at the pleasure of the Commissioner In Charge. Upon completion for occupancy of all the facilities composing the Portland Center for the Performing Arts, the Performing Arts Center Advisory Committee shall be disbanded. In case of vacancy by death, incapacity to serve, or resignation, the Commissioner In Charge shall appoint a successor to serve the remainder of the vacant term. The Commissioner In Charge, or that person's representative, shall be an ex officio member of the Committee, but shall not be entitled to vote.

**3.67.020      Procedure and Rules of Committee.**

The Performing Arts Center Advisory Committee shall establish its own rules, bylaws and provide the procedure for all matters for consideration or action by the Committee. The Committee shall hold meetings at the call of the Chairman.

**3.67.030      Duties.**

The Performing Arts Center Advisory Committee shall be responsible for raising funds and advising the Commissioner In Charge in the planning, programming, design and construction phases of the Portland Center for the Performing Arts.

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**CHAPTER 3.68 - FORMAL JAPANESE  
GARDEN COMMISSION**

**Sections:**

- 3.68.010 Created.
- 3.68.020 Powers and Duties.
- 3.68.030 Meetings.
- 3.68.040 Officers.
- 3.68.050 Rules - Quorum.
- 3.68.060 Vacancy - Removal.

**3.68.010 Created.**

There hereby is created a Formal Japanese Garden Commission for the City. The Commission shall consist of the Mayor, the Commissioner In Charge of the Bureau of Parks, the President of the Japan Society of Oregon, the President of the Japanese Ancestral Society, the Japanese Consul, and 12 persons appointed by the Mayor. All appointments shall be by the Mayor for 3-year terms, provided, when an interim vacancy occurs the appointment shall be to fill the unexpired term of the position vacated. All members shall serve without compensation.

**3.68.020 Powers and Duties.**

It shall be the duty of the Commission to formulate and submit to the City Council plans for the establishment, maintenance, improvement and promotion of a formal Japanese garden. The Commission shall submit to the Council, not less than every 6 months, a report of its progress and recommendations. The Commission may form subcommittees, appoint unpaid advisors, hold public hearings, encourage the interest of other organizations in its objectives, and engage in similar activities which in its judgment may assist it in making recommendations and promoting the plan, establishment, maintenance and improvement of a formal Japanese garden that will be an attraction enjoyed by the people of Portland and their guests.

**3.68.030 Meetings.**

Each year an annual meeting shall be held. Each Commission member shall serve until the annual meeting of the year in which his term expires, or thereafter until his successor is appointed and qualified. Not less than three interim meetings shall be held each year in addition to the annual meeting. The Chairman of the Commission shall designate the time and place of the annual and interim meetings and the Secretary of the Commission shall give not less than 5 days advance notice thereof to each Commission member.

**3.68.040 Officers.**

A Chairman, Vice Chairman and Secretary shall be elected at each annual meeting of the Commission from among its members. All Commission officers shall serve until the annual meeting next following their election, or thereafter until a successor is elected.



**3.68.050 Rules - Quorum.**

Rules of procedures may be adopted and amended only upon an affirmative vote of eight or more Commission members. Election of officers, removal of members, and regular business of the Commission shall be passed upon by the majority of a quorum. Not less than eight members shall constitute a quorum. Each member shall be entitled to one vote.

**3.68.060 Vacancy - Removal.**

Death, resignation, removal or inability to serve shall constitute a vacancy in the Commission. The Commission may remove any member for cause. Unexcused absence from four consecutive Commission meetings shall constitute cause for removal.

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**CHAPTER 3.70 - PITTOCK MANSION  
ADVISORY COMMISSION**

**Sections:**

- 3.70.010 Created - Terms.
- 3.70.030 Special Committees and Services.
- 3.70.050 Officers.
- 3.70.060 Rules - Quorum.
- 3.70.070 Vacancy.

**3.70.010 Created - Terms.**

There hereby is created a Pittock Mansion Advisory Commission for the City, to which the Mayor, Commissioner In Charge of the Bureau of Parks, and Superintendent of Parks shall be ex officio members. The Commission shall otherwise consist of nine members appointed by the Mayor. The Mayor shall initially appoint two members for 1 year, three members for 2 years, two members for 3 years, and two members for 4 years. Thereafter all appointments shall be by the Mayor for 4-year terms, provided, when an interim vacancy occurs the appointment shall be to fill the unexpired term of the position vacated. All members shall serve without compensation. The term of each such appointment shall be extended as necessary so that the term ends November 1.

**3.70.020 Powers and Duties.**

(Amended by Ordinance No. 154194; repealed by Ordinance No. 167733, effective June 1, 1994.)

**3.70.030 Special Committees and Services.**

Upon request of the Commission, the Mayor may appoint one or more special committees to serve the Commission in an advisory capacity. Secretarial services and office requirements shall be furnished to the Commission by the Bureau of Parks.

**3.70.040 Meetings.**

(Amended by Ordinance No. 154194; repealed by Ordinance No. 167733, effective June 1, 1994.)

**3.70.050 Officers.**

Officers of the Commission shall consist of a Chairman, Vice Chairman, Secretary and Treasurer, elected from its membership at the organizational meeting and at each annual meeting thereafter. All Commission officers shall serve until the annual meeting next following their election or thereafter until a successor is elected.

**3.70.060 Rules - Quorum.**

Rules of procedure may be adopted and amended only upon an affirmative vote of six or more Commission members. Election of officers, removal of members, and regular business of the Commission shall be passed upon by the majority of a quorum. Not less than five members shall constitute a quorum. Each member shall be entitled to one vote.

**3.70.070 Vacancy.**

Death, resignation, removal or inability to serve shall constitute a vacancy in the Commission. The Commission may remove any member for cause. Unexcused absence from four consecutive Commission meetings shall constitute cause for removal.

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**CHAPTER 3.71 - ENVIRONMENTAL  
COMMISSION**

(Chapter added by Ordinance No. 164432; repealed  
by Ordinance No. 167239, effective December 29,  
1993.)

CHAPTER 3.72 - COMMITTEE ON CLAIMS

**Sections:**

- 3.72.010 Created - Members - Meetings.  
3.72.020 Presentation of Claims.  
3.72.030 Consideration of Claims Not Covered by Insurance.

**3.72.010 Created - Members - Meetings.**

(Amended by Ordinance Nos. 132014 and 163439, effective September 5, 1990.)

- A. Created. A Committee to be known as the “Committee on Claims” is hereby created for the purpose of considering fair and moral claims against the City not covered by insurance and making recommendations concerning the claims to the City Council.
- B. Members. This Committee shall consist of two members of the City Council appointed by the Mayor, one of whom shall be designated Chairman, and the City Auditor. The Risk Manager shall meet with the Committee, without power of vote, and serve as Secretary.
- C. Meetings. The Committee shall meet at times designated by the Chairman.

**3.72.020 Presentation of Claims.**

(Amended by Ordinance No. 163439, effective September 5, 1990.) All fair and moral claims against the City shall be presented to the Risk Manager. Presentation to the Risk Manager shall for all legal purposes be regarded as presentment to the Council of the City. Nothing contained herein shall be construed as repealing or modifying any of the provisions of Sections 1-106 and 1-107 of the Charter.

**3.72.030 Consideration of Claims Not Covered by Insurance.**

(Amended by Ordinance No. 163439, effective September 5, 1990.) The Risk Manager shall investigate and process all fair and moral claims against the City. The Risk manager shall present to the meeting of the Committee on Claims all facts and evidence gathered. The Committee shall make a recommendation on all claims presented and the same shall be transmitted to the Council for their consideration and final decision.

**3.72.040 Claims Covered by Insurance.**

(Repealed by Ordinance No. 163439, effective September 5, 1990.)

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**CHAPTER 3.74 - OATHS OF OFFICE**

**Sections:**

- 3.74.010 Persons Required to Take Oath.
- 3.74.020 Form of Oath for Mayor, Commissioner and City Auditor.
- 3.74.030 Form of Oath for Non-Elected City Employees.
- 3.74.040 Administering Oaths.

**3.74.010 Persons Required to Take Oath.**

(Amended by Ordinance Nos. 180917 and 189635, effective August 31, 2019.)

- A.** Each of the following employees shall be required to take an oath of office, which oath shall be subscribed by the person taking it and shall be filed and preserved in the office of the City Auditor;
  - 1.** Every officer and member of the Bureau of Police, including temporary, and reserve officers;
  - 2.** Parking code enforcement supervisors and officers;
  - 3.** Each officer and member of Portland Fire & Rescue serving full time and devoting labor exclusively to the interests of the City;
  - 4.** Each elected City official;
  - 5.** The City Attorney and every deputy City Attorney; and
  - 6.** Each deputy City Auditor who administers oaths.
- B.** The City Council or a City board or commission may require the members of the board or commission to take an oath of office. If an oath of office is required, the Council or the board or commission shall establish requirements for the form, administration, and filing of the oath.

**3.74.020 Form of Oath for Mayor, Commissioner, and City Auditor.**

(Amended by Ordinance Nos. 168343 and 189635, effective August 31, 2019.) The form of oath to be taken by the elected officials of the City, after receiving a certificate of election from the City Elections Officer and before entering upon the discharge of their duties, shall be substantially as follows:

I, (name), do solemnly (affirm or swear) that I will support the Constitutions of the United States and of the State of Oregon and the Charter of the City of Portland and its laws; I will faithfully, honestly and ethically perform my duties as (Mayor/Commissioner/City Auditor); I have no undisclosed financial interest in any business located in Portland or having contracts with the City; I hold no other office or position of profit; and I am not a member of any committee of any political party.

Additional language may be added for ceremonial purposes but shall not be considered part of the official oath of office.

**3.74.030 Form of Oath for Non-Elected City Employees.**

(Amended by Ordinance Nos. 139501, 168343 and 189635, effective August 31, 2019.)

The form of oath to be taken by non-elected City employees, before entering upon the discharge of their duties or as soon as possible thereafter, shall be substantially as follows:

I, (name), do solemnly (affirm or swear) that I will support the Constitutions of the United States and of the State of Oregon and the Charter of the City of Portland and its laws; and I will faithfully, honestly and ethically perform my duties as (office).

Additional language may be added for ceremonial purposes but shall not be considered part of the official oath of office.

**3.74.040 Administering Oaths.**

(Added by Ordinance No. 189635, effective August 31, 2019.) When an oath is required by this Chapter:

- A. The oath may be administered by the City Auditor, a deputy City Auditor, a notary public, or a judge or magistrate of any court of record in the United States, within their respective jurisdictions.
- B. Oaths shall be in writing and signed by the persons taking and administering the oath. Whenever the oath is administered by a person other than the City Auditor or a deputy City Auditor, the credentials of the person administering the oath shall appear on the document, and the oath shall be sent immediately to the City Auditor.

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**CHAPTER 3.76 - PUBLIC RECORDS**

(Chapter replaced by Ordinance No. 182637,  
effective May 1, 2009.)

**Sections:**

- 3.76.010 Definitions.
- 3.76.020 Purpose.
- 3.76.030 Archives and Records Management Program Creation and Administration.
- 3.76.040 Authority and Duties of the Archives and Records Management Program.
- 3.76.050 Duties of Elected Officials and the Managers of City Agencies.
- 3.76.060 Care of Records.
- 3.76.070 Destruction of Records.
- 3.76.080 Use of Copies.
- 3.76.090 Public Access to Records.

**3.76.010 Definitions.**

In this Chapter, unless the context otherwise requires:

- A. **“Agency”** means a department, bureau, office, commission, board, public corporation or other organizational unit created by the Council of the City of Portland.
- B. **“Record”** or **“City record”** means any recorded information, regardless of physical form or characteristic, prepared, owned, used or retained in connection with the transaction of official business and preserved or appropriate for preservation by an agency as evidence of the organization, function, policies, decisions, procedures, operations or other activities of the City of Portland or because of the informational value in it. The term does not include library and museum material developed or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved solely for convenience of reference, or stocks of publications. These records are public property, subject to Oregon Public Records Law and to the records management requirements established by this Code.

**3.76.020 Purpose.**

The purpose of this Chapter is to provide for the orderly management and care of current City records and to preserve non-current City records of permanent value for administrative, legal, and research purposes.

**3.76.030 Archives and Records Management Program Creation and Administration.**

The City Auditor shall maintain a professional Archives and Records Management Program for the City, and shall be responsible for the maintenance of all City records. The City Auditor shall be the custodian for all permanent records for which an agency has transferred ownership to the Auditor and for all historical records.



**3.76.040 Authority and Duties of the Archives and Records Management Program.**

The Archives and Records Management Program shall:

- A.** Operate the program and the Archives and Records Center facility in accordance with currently accepted archives and records management professional standards;
- B.** Acquire, receive, appraise and secure records of permanent value from agencies of the City of Portland when those records are no longer necessary for conducting current business;
- C.** Acquire, receive, appraise, and secure all records for areas annexed by the City from a county or special district or from a defunct agency of the City of Portland;
- D.** Negotiate for the acquisition and return of City records which have been removed from its possession;
- E.** Secure transfer of records to the Archives when it has been determined that the records are stored under conditions that do not meet the standards established by Archives and Records Management;
- F.** Maintain inventories, indexes, catalogs, and other finding aids or guides to facilitate access to the City Archives;
- G.** Analyze, develop and provide written standards and procedures for the care and maintenance of City records, including those created and/or maintained in electronic format;
- H.** Establish minimum recordkeeping requirements for business systems or applications that maintain official City records;
- I.** Provide access, as defined by State law and City policies, to the records within Archives and Records Management's custodianship;
- J.** Establish procedures for City agencies regarding the identification, segregation, and protection of records vital to continuing operations to comply with the City's emergency preparedness policies;
- K.** Establish standards for City agencies with regard to the appropriate use of record media, accounting for cost, access and preservation;
- L.** Establish procedures for the preparation of records inventories and descriptions; develop records retention schedules for review by the City Auditor and City Attorney and which meet the requirements of Oregon Administrative Rules;

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- M.** Establish procedures for the prompt and orderly disposition of City records for which the state archivist has granted authority to destroy because they no longer possess administrative, legal, or research value to warrant their retention;
- N.** Provide training to City agencies and employees on all aspects of records management.

**3.76.050 Duties of Elected Officials and the Managers of City Agencies.**

Each City elected official and agency manager shall:

- A.** Make and preserve records containing adequate documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency which are designed to furnish the information necessary to protect the legal and financial rights of the City and of persons directly affected by the agency's activities;
- B.** Ensure staff compliance with City records policies and procedures established by Archives and Records Management;
- C.** Work with Archives and Records Management to develop and review records retention schedules for records maintained by the agency;
- D.** Inform Archives and Records Management of any regulatory changes affecting record retention, maintenance or access requirements;
- E.** Notify Archives and Records Management of any program changes that may affect the management of City records, including but not limited to: new agency responsibilities; records that are no longer being created; changes to records maintenance practices;
- F.** Follow established procedures to identify, segregate and protect records vital to the continuing operation of an agency in the event of natural or man-made disaster;
- G.** Ensure that at least one copy of each report, document, study, publication or consultant report prepared at City expense be deposited with the Archives;
- H.** Notify the Archives of records older than 25 years in the agency's possession; transfer control of original records upon notification from the Archives;
- I.** Establish safeguards against unauthorized or unlawful removal, loss or destruction of City records;
- J.** Ensure that City records are maintained in a manner that meets guidelines set by Archives and Records Management for security and environment;

- K.** Designate a management level employee to act as a liaison between the agency and Archives and Records Management on all matters relating to the archives and records management program.

**3.76.060 Care of Records.**

Records of the City of Portland shall be managed according to the provisions of Oregon Revised Statutes, Oregon Administrative Rules and of this Chapter.

**3.76.070 Destruction of Records.**

City records covered by a records retention schedule shall be destroyed according to the parameters set forth in the retention schedule. In general, records shall not be retained beyond their prescribed retention.

**3.76.080 Use of Copies.**

- A.** A public officer performing duties under this Chapter is authorized to copy in any manner which produces a permanent, clear, accurate and durable reproduction of the original record. An original City record which is worn or damaged may be replaced by a reproduction made in accordance with this Chapter. Certification by the City Auditor, City Attorney, Archives and Records Management, or by the agency having custody of the record that the replacement is a true and correct copy of the original shall appear at the end of the reproduction. When original City records are reproduced and placed in conveniently accessible files and provisions are made for preserving and using them for the duration of their legally mandated retention, the originals from which they were made may be destroyed.
- B.** Reproduction or replacement of City records made under this Chapter are admissible in evidence as primary evidence of the original writing.

**3.76.090 Public Access to Records.**

All City records, except for those exempted by law, are available for inspection and copying by the public. The City may require that records use occur during certain business hours and at specified locations, and may charge fees to recover the cost of retrieval and copying.

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**CHAPTER 3.77 - OFFICE OF THE  
OMBUDSMAN**

(Chapter added by Ordinance No. 175568, effective  
July 1, 2001.)

**Sections:**

- 3.77.010 Purpose.
- 3.77.020 Definitions.
- 3.77.030 Office of the Ombudsman.
- 3.77.040 Ombudsman Selection.
- 3.77.050 Qualifications and Prohibitions.
- 3.77.060 Reserved.
- 3.77.070 Removal.
- 3.77.080 Staff and delegation.
- 3.77.090 Reserved.
- 3.77.100 Office Facilities and Administration.
- 3.77.110 Powers and Duties.
- 3.77.120 Investigations of Complaints.
- 3.77.130 Communications with Agency.
- 3.77.140 Communications with Complainant.
- 3.77.150 Procedure after Investigation.
- 3.77.160 Informing Community Members.
- 3.77.170 Reports.
- 3.77.180 Reserved.
- 3.77.190 Duty to Cooperate.
- 3.77.200 Ombudsman Immunities.
- 3.77.210 Reprisals Prohibited.
- 3.77.220 Relationship to Other Laws.
- 3.77.230 Effective Date.

**3.77.010 Purpose.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) The Office of the Ombudsman is an independent, impartial office, readily available to the public, responsible to the City Auditor, empowered to investigate the administrative acts of City departments, bureaus and other administrative agencies, issue reports and recommend appropriate changes toward the goals of safeguarding the rights of persons and of promoting higher standards of fairness, competency, efficiency and justice in the provision of city services.

**3.77.020 Definitions.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) In this chapter:

- A. "Administrative act" means an action, failure to act, omission, decision, recommendation, practice, policy or procedure.

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- B.** “Agent or agency” includes any department, bureau, office, institution, corporation, authority, board, commission, committee of the city, and any officer, employee, or member of the foregoing entities acting or purporting to act in the exercise of their official duties. EXCEPTING: elected officials and their personal staff.
- C.** “City Auditor” refers to the elected City Auditor.
- D.** “City” refers to the City of Portland.
- E.** “City Council” refers to the City’s legislative body comprised of five elected officials, the Mayor, and four City Commissioners.
- F.** “Ombudsman” means the public official appointed by the City Auditor to receive and investigate the public’s complaints against administrative acts of City government.
- G.** “Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, and/or the manager, lessee, agent, servant, officer, or employee of any of them;
- H.** "Record" means all records, documents, books, papers, files, photographs, microfilms, sound recordings, video recordings, magnetic storage media, computer data and all other materials, regardless of physical form or characteristics, created, generated, recorded, received, possessed or controlled by or on behalf of any agency.
- I.** “State” refers to the State of Oregon.

**3.77.030 Office of the Ombudsman.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) There is established in accordance with City Charter Section 2-509 the Office of the Ombudsman.

**3.77.040 Ombudsman Selection.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) The City Auditor shall select the Ombudsman in accordance with the Auditor’s human resource policies and rules and other applicable laws.

**3.77.050 Qualifications and Prohibitions.**

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A.** The Ombudsman shall be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems pertaining to City regulations, administration, and public policy, and shall have a working knowledge in local government commensurate to the powers and duties of the office. The Ombudsman shall be a registered voter of the United States, and shall hold a degree from an accredited college/university, or its equivalent in service to local government.

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- B.** No person may serve as Ombudsman while engaged in any other occupation, business, or profession likely to detract from the full-time performance of their duties as Ombudsman or to result in a conflict of interest or an appearance of impropriety or partiality. All laws and requirements generally applicable to public employees are applicable to the Ombudsman.

**3.77.060 Reserved.**

**3.77.070 Removal.**

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A.** The Ombudsman is an at-will employee and may be removed from office by the City Auditor.
- B.** If the position becomes vacant for any reason, the Deputy Ombudsman shall serve as acting Ombudsman until a new Ombudsman has been appointed.

**3.77.080 Staff and Delegation.**

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A.** The Ombudsman may appoint a deputy who is accountable to the Ombudsman and other personnel necessary to carry out the provisions of this chapter, when in keeping within the adopted budget for the Ombudsman's Office.
- B.** The Ombudsman may delegate to staff members any of the Ombudsman's duties, unless otherwise specified in this chapter.
- C.** The deputy shall succeed to all duties and responsibilities of the Ombudsman, including those specified by ordinance, when serving as the acting Ombudsman.

**3.77.090 Reserved.**

**3.77.100 Office Facilities and Administration.**

- A.** The City shall provide suitable office facilities for the Ombudsman and staff in a location convenient for the public.
- B.** The Ombudsman shall annually recommend a budget proposal for submission to the City Auditor, who shall in turn include it in the Auditor's budget submission to the Mayor and City Council.
- C.** The Ombudsman shall be located within the City Auditor's office, and be accountable to the City Auditor. The Ombudsman shall have sole discretion in choosing consultants to assist with investigations, and in hiring staff. All administrators shall retain the authority to deny any request which is otherwise

contrary to ordinance or which exceeds the city council-adopted budget for the office.

**3.77.110 Powers and Duties.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) The Ombudsman's powers and duties include, but are not limited to the following:

- A.** To investigate, on complaint or on the Ombudsman's own initiative, any administrative act of an agency, without regard to the finality of the administrative act, if the Ombudsman reasonably believes that it is an appropriate subject for review;
- B.** To undertake, participate in or cooperate with persons and agencies in such general studies, conferences, inquiries, meetings, or studies which might improve the functioning of agencies or lessen the risks that objectionable administrative acts will occur;
- C.** To make such inquiries and obtain such reasonable assistance and information from any agency or person as the Ombudsman shall require for the discharge of the Ombudsman's duties; and may without prior notice enter and inspect the premises of any agency. Agencies shall not restrict the Ombudsman's access to agency employees, subject to collective bargaining obligations to the City's recognized bargaining units;
- D.** In accordance with City Charter, subject to collective bargaining obligations to the City's recognized bargaining units, to have timely access to and to examine and copy, without payment of a fee, any agency information and records, including confidential and legally privileged information and records so long as privilege is not waived as to third parties, subject to any applicable state or federal laws. The Ombudsman shall not disclose confidential or legally privileged information or records and shall be subject to the same penalties as the legal custodian of the information or records for any unlawful or unauthorized disclosure;
- E.** To request any person or agency to give sworn testimony or to timely produce documentary or other evidence that is reasonably relevant to the matters under investigation;
- F.** To maintain confidential any matter related to complaints and investigations to the extent allowable by law, except as the Ombudsman deems necessary to discharge the Ombudsman's duties or as directed by the District Attorney pursuant to a public records request;
- G.** To take appropriate measures to enforce the provisions of this chapter, including issuing reports, submitting recommendations, or seeking Council authorization for legal recourse if necessary to carry out the duties of the Office of the Ombudsman;

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- H.** To adopt, promulgate, amend and rescind rules and regulations required for the discharge of the Ombudsman's duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and recommendations. However, the Ombudsman may not levy any fees for the submission or investigation of complaints;
- I.** To insure that a budget for the Office of the Ombudsman is well prepared and administered.

**3.77.120 Investigations of Complaints.**

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A.** The Ombudsman shall receive complaints from any source concerning any administrative act. The Ombudsman may conduct a suitable investigation of a complaint that is an appropriate subject for investigation. An appropriate subject for investigation by the Ombudsman includes any administrative act that the Ombudsman believes might be:
  - 1.** contrary to, law, regulation or agency practice;
  - 2.** unreasonable, unfair, oppressive, arbitrary, an abuse of discretion, or unnecessarily discriminatory even though in accordance with law;
  - 3.** based on mistaken facts or irrelevant considerations;
  - 4.** unclear or not adequately explained;
  - 5.** performed in an inefficient or discourteous manner;
  - 6.** otherwise erroneous or objectionable.
- B.** The Ombudsman, at the Ombudsman's discretion, may decide not to investigate a complaint because:
  - 1.** the complainant could reasonably be expected to use, or is using, another remedy or channel, or tort claim, for the grievance stated in the complaint;
  - 2.** the complaint relates to a matter that is outside the jurisdiction of the Ombudsman;
  - 3.** the complaint has been too long delayed to justify present examination;
  - 4.** the complainant does not have a sufficient personal interest in, or is not personally aggrieved by, the subject matter of the complaint;
  - 5.** the complaint is trivial, frivolous, vexatious or not made in good faith;



6. the resources of the Ombudsman's Office are insufficient for adequate investigation;
  7. other complaints are more worthy of attention.
- C. The Ombudsman shall not investigate matters currently in litigation; covered by collective bargaining agreement grievance procedures; or, employee or applicant discrimination complaints.
- D. The Ombudsman's declining to investigate a complaint shall not bar the Ombudsman from proceeding on their own initiative to investigate an administrative act whether or not included in the complaint.
- E. The Ombudsman shall protect the confidentiality of complainants or witnesses coming before them consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the Ombudsman to carry out their duties or the disclosure of records is directed by the District Attorney. (See Subsection 3.77.110 F.)
- F. The Ombudsman shall have the authority to pursue administrative review of responses to complaints through higher authorities within the City.

**3.77.130 Communications with Agency.**

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A. The Ombudsman may make recommendations to an agency for the resolution of complaints and inquiries in accordance with this Chapter and City Charter.
- B. In seeking a resolution to a complaint or inquiry the Ombudsman may draw the matter to the attention of any agency head or division manager, the City Auditor, Mayor, City Commissioner, or the public.
- C. Before formally issuing a report with a conclusion or recommendation that is significantly critical or adverse to an agency, the Ombudsman shall have consulted with that agency and permitted the agency reasonable opportunity to reply. The Ombudsman may require an agency to notify them within a reasonable specified time of any action taken on a conclusion or recommendation. The Ombudsman will provide the opportunity to include with a final report a brief statement by the agency.

**3.77.140 Communications with Complainant.**

- A. After the Ombudsman has decided whether or not to investigate a complaint, the Ombudsman shall inform the complainant.

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- B.** The Ombudsman shall, if requested by the complainant, report the status of his or her investigation to the complainant.
- C.** After investigation of a complaint, the Ombudsman shall inform the complainant of his or her conclusion or recommendation and, if appropriate, any action taken or to be taken by the agency involved.

**3.77.150 Procedure after Investigation.**

(Amended by Ordinance No. 188842, effective March 30, 2018.)

- A.** If, after investigation, the Ombudsman is of the opinion that an agency should:
  - 1.** consider the matter further,
  - 2.** modify or cancel an act,
  - 3.** alter a regulation, ruling, practice, policy or procedure;
  - 4.** explain more fully the act in question,
  - 5.** rectify an omission, or take any other action,

the Ombudsman shall state any conclusions, recommendations and reasons therefor to the agency. If the Ombudsman so requests, the agency shall, within the time specified, inform the Ombudsman about the action taken on recommendations or the reasons for not implementing them.

- B.** After a reasonable period of time has elapsed, the Ombudsman may issue final conclusions or recommendations to the Auditor, the Mayor and City Commissioners, a grand jury, the public, or any other appropriate authority. The Ombudsman shall include any brief statement the agency may provide if an opportunity to reply is required by this Chapter.
- C.** If the Ombudsman believes that an action has been dictated by laws whose results are unfair or otherwise objectionable, and could be revised by City Council action, the Ombudsman shall notify the City Council and the agency of a desirable statutory change.
- D.** If the Ombudsman believes that any agency official or employee has acted in a manner warranting criminal or disciplinary proceedings, the Ombudsman shall refer the matter to the appropriate authorities without notice to that person.

**3.77.160 Informing Community Members.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) The Ombudsman shall post notices or use other appropriate means to inform community members of their rights, protections, and availability of services provided for under this Chapter and City Charter

Section 2-509. These notices may include posted notices in public areas; or, electronic postings or links through Internet web sites, including the City web site. Nothing in this section is to be construed as repealing any other provisions of contract, ordinance or law.

**3.77.170 Reports.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) The Ombudsman may from time to time and shall annually report the Office of the Ombudsman's activities to the Auditor and City Council, or any of its committees, to the public and, in the Ombudsman's discretion, to agencies.

**3.77.180 Reserved.**

**3.77.190 Duty to Cooperate.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) City employees shall cooperate with the Ombudsman in the exercise of their powers, and shall not mislead or attempt to mislead an Ombudsman's inquiry.

**3.77.200 Ombudsman Immunities.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) To the extent allowable by law, the Ombudsman and staff shall not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to any matter involving the exercise of their official duties except as may be necessary to enforce this Chapter and City Charter Section 2-509.

**3.77.210 Reprisals Prohibited.**

No person who files a complaint or participates in any investigation or proceeding pursuant to this chapter shall be subject to any penalties, sanctions or restrictions in connection with his or her employment or be denied any right, privilege, or benefit because of such action.

**3.77.220 Relationship to Other Laws**

The provisions of this Chapter are in addition to and do not in any manner limit or affect any other provisions of law under which any remedy or right of appeal is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter. The powers conferred on the Ombudsman may be exercised notwithstanding any provision of law to the effect that any administrative action shall be final or unappealable.

**3.77.230 Effective Date**

This Act shall take effect on July 1, 2001.

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**CHAPTER 3.78 - ACQUISITION OF COUNTY  
PROPERTY FOR PARK PURPOSES**

**Sections:**

- 3.78.010 Authorization for Payment.
- 3.78.020 Title Reports.
- 3.78.030 Clearing of Title.
- 3.78.040 Retaining Property with Cloud on Title.

**3.78.010 Authorization for Payment.**

(Amended by Ordinance Nos. 173369 and 189452, effective May 10, 2019.) In all cases, past, present or future, in which an ordinance provides for the acquisition of park property from Multnomah County and where Multnomah County does not furnish an abstract or title insurance, the Accounting Division is hereby authorized to draw and deliver a check in favor of Multnomah County for the amount to be paid for the deed from the county unless such ordinance indicates specifically a purpose to disregard this Chapter and thereupon the Accounting Division shall submit the matter to the City Attorney.

**3.78.020 Title Reports.**

The City Attorney hereby is authorized to obtain a policy of title insurance covering any particular parcel or parcels of property purchased in the past or in the future from Multnomah County for park and playground purposes. The expense of such title reports shall be chargeable to the public recreational areas fund.

**3.78.030 Clearing of Title.**

The City Attorney hereby is authorized to initiate and prosecute whatever legal action is necessary in his opinion to clear the title to any property covered by this Chapter and in any case, past, present or future, where he deems it necessary. Any expense incident thereto shall be chargeable to the public recreational areas fund.

**3.78.040 Retaining Property with Cloud on Title.**

Authority is hereby granted to accept and retain any property covered by this Chapter that has cloud on the title when and if the City Attorney renders an opinion that such cloud on title is not be deemed in imminent hazard.

**CHAPTER 3.80 - SPECIAL PERMITS**

**Sections:**

3.80.010 Operations to Cease Upon Expiration of Permit.

3.80.020 Use of Park Property for Private Gardening Purposes.

**3.80.010 Operations to Cease Upon Expiration of Permit.**

It is unlawful for any person, who has been granted a special permit, whether under any special code or not, to continue to operate under the terms of the permit after the date on which the special permit, by its terms, expires. All persons to whom such a special permit has been granted by the Council shall come within the terms of this provision and comply herewith immediately after the expiration of the special permit by ceasing the operations allowed under the terms of the special permit.

**3.80.020 Use of Park Property for Private Gardening Purposes.**

Park property not needed by the City for development may be used by private parties for gardening purposes by obtaining a special permit. The bureau of parks is authorized to issue revocable permits for such purpose and shall impose such conditions as are necessary and advisable to protect the interests of the City.

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**CHAPTER 3.82 - OFFICER AND EMPLOYEE  
BONDS**

**Sections:**

- 3.82.010 Exceptions.
- 3.82.020 Bond of the City Treasurer.
- 3.82.030 City Auditor's Bond.

**3.82.010 Exceptions.**

All officers and employees, including the City Auditor, but not including the Mayor and City Commissioners, shall furnish a bond or bonds protecting the City against dishonesty, which bond or bonds shall be in the amount of \$10,000 per employee, with a further bond or bonds written as excess in the amount of \$40,000 per employee. Such bond or bonds shall run to the City, and the premium shall be paid by the City.

**3.82.020 Bond of the City Treasurer.**

The City Treasurer shall furnish a bond conditioned upon the faithful performance of his duties in the sum of \$100,000, which bond shall run to the City and the premium shall be paid by the City.

**3.82.030 City Auditor's Bond.**

The Auditor of the City shall furnish, in addition to the honesty bond provided above, a faithful performance bond in the sum of \$50,000, conditioned upon the faithful performance of his duties, which bond shall run to the City and the premium shall be paid by the City.

CHAPTER 3.84 - CITY OWNED MOTOR  
VEHICLE ACCIDENT REPORTS

**Sections:**

- 3.84.010 Filing of Accident Report.
- 3.84.020 Form of Report.
- 3.84.030 Repair Shop Report.
- 3.84.040 Repair.
- 3.84.050 Billing of Charges.

**3.84.010 Filing of Accident Report.**

(Amended by Ordinance No. 165594, effective July 8, 1992.) In addition to the requirements of ORS 813, accident reports shall be filed:

- A. Whenever any motor vehicle belonging to the City, whether being operated by a City employee or not, becomes involved in an accident resulting in injury or death to any person or damage to the City vehicle or property of another, the operator of the City vehicle or the person to whom the vehicle is assigned or chargeable, shall, not later than the next normal day of business following the date of the accident, forward a complete written report of such accident, in triplicate, to the Bureau of Property Control upon forms furnished by the City. The Property Control Officer shall forward one copy of every report so filed, to the office of the City Attorney not later than the next normal day of business following the day of the filing;
- B. Whenever the original report and duplicate is insufficient in the opinion of the Property Control Officer of the City Attorney, supplemental reports of accidents may be required of the person or persons chargeable therefor;
- C. Whenever the driver of a vehicle involved in an accident is injured thereby so as to be incapable of making a required accident report and there was another City employee occupant in the vehicle at the time of the accident capable of making a report, such occupant shall make or cause the report to be made.

**3.84.020 Form of Report.**

The Bureau of Property Control shall prepare or otherwise provide, and upon request supply to the various departments and bureaus of the City, forms for accident reports required in Section 3.84.010. The report shall call for sufficiently detailed information to disclose with reference to an accident involving a City owned motor vehicle, the cause, conditions then existing, and the persons and property involved.

**3.84.030 Repair Shop Report.**

The person in charge of the bureau repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident, shall report in writing to the Bureau of Property Control not later than the next normal day of business after such motor vehicle

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is received, giving the City property number of such vehicle, department, and a general description of the damage.

**3.84.040 Repair.**

Every City owned motor vehicle damaged as defined in the subdivision (1) of Section 3.84.010 shall be removed to the municipal shop for repairs as soon as conveniently possible following the accident, but in no event more than 7 days thereafter; provided, however:

- A. That no vehicle shall be repaired without prior authorization of the Commissioner In Charge of the bureau to which the vehicle is assigned, or his authorized representative, except in the event of emergency whereupon the said Commissioner shall be notified within 72 hours of all such work done; and
- B. In no event shall any vehicle be repaired by other than a City owned and operated repair shop unless and until the Purchasing Agent of the City shall have first obtained at least three independent estimates of cost of repair, and in such event the repair work shall be awarded to the lowest responsible bidder.

**3.84.050 Billing of Charges.**

(Amended by Ordinance No. 189452, effective May 10, 2019.) No request for billing of charges for repair of motor vehicles damaged as defined in this Chapter shall be forwarded to the Office of Management and Finance as in Section 5.48.040 provided, until the validity thereof based upon determination of liability shall have first been approved by the City Attorney.



**CHAPTER 3.86 - GOLF ADVISORY  
COMMITTEE**

(Chapter added by Ordinance No. 133195, effective  
September 20, 1971.)

**Sections:**

- 3.86.010 Created - Organization.
- 3.86.020 Procedure and Rules.
- 3.86.030 Duties.

**3.86.010 Created - Organization.**

(Amended by Ordinance Nos. 169770, 178253, 178935 and 186275, effective November 1, 2013.) There hereby is created an advisory committee to the Commissioner-in-Charge and Director of Parks to be known as the Golf Advisory Committee, consisting of ten voting members who shall serve without compensation. Members will however be entitled the use of each of the City's golf facilities, up to 4 times per year at no charge. Following each committee member visit to one of the golf facilities on this basis, he/she will be required to document the business purpose of the visit on a GAC Visit Form provided by the City. The Commissioner-in-Charge shall appoint the members of the Committee, the members to serve for a term of three years and may serve two consecutive terms. The Commissioner-in-Charge shall seek, to the extent feasible, to promote socio-economic diversity in appointments to the Committee, and, in order to accomplish or promote such diversity, may authorize, in the Commissioner's sole discretion, complimentary use of the City's golf facilities in addition to that provided to Committee members under this Section. The requirement of this Section that members document the business purpose of their free use of golf facilities shall apply to such additional use authorized by the Commissioner. The Commissioner-in-Charge or his/her representative shall be an ex-officio member of the Committee.

**3.86.020 Procedure and Rules.**

(Amended by Ordinance No. 169770, effective March 8, 1996.) The Golf Advisory Committee shall establish operating rules, bylaws, and procedures for all matters for consideration or action by the Committee, subject to the approval of the City Attorney. The Committee shall hold meetings at such time as is set by the body and at any other time at the call of the Committee Chair.

**3.86.030 Duties.**

(Amended by Ordinance Nos. 169770 and 186275, effective November 1, 2013.) The Golf Advisory Committee duties shall include, but not be limited to advising the Commissioner-in-Charge and the Director of Parks regarding the following areas: Golf Program budget review, review of the golf Program's Capital Improvement Program; review of golf concession contracts and proposals; review of the development, and monitoring of, the Golf Program's Strategic Plan, the marketing of the municipal Golf System; maximization

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and use of Golf System revenue. The Golf Advisory Committee shall make an annual written report to the Commissioner-in-Charge, the Director of Parks and to the Council.

**CHAPTER 3.88 - INVESTMENT ADVISORY  
COMMITTEE**

(Chapter added by Ordinance No. 135093; amended  
by 143470 and 151419, effective April 16, 1981.)

**Sections:**

- 3.88.010 Created - Organization.
- 3.88.020 Procedure and Rules.
- 3.88.030 Duties.

**3.88.010 Created - Organization.**

(Amended by Ordinance Nos. 167877 and 181483, effective January 18, 2008.) There hereby is created an advisory committee to the Commissioner In Charge, the Director of the Office of Management and Finance and the city Treasurer to be known as the Investment Advisory Committee. The Committee shall consist of a minimum of three public members who shall serve without compensation. The Commissioner In Charge, with approval by the Council, shall appoint the public members of the Committee to serve for 2-year terms that are renewable. The Debt Manager shall be an ex officio member of the Committee. In case of the resignation, death or inability to serve of any member, the Commissioner may appoint a successor to serve out the unexpired term subject to approval by the Council.

**3.88.020 Procedure and Rules.**

(Amended by Ordinance Nos. 167877 and 181483, effective January 18, 2008.) The Investment Advisory Committee shall establish its own rules, bylaws and provide the procedure for all matters for consideration or action by the Committee. The Committee shall hold at least three meetings per year at such times as is set by the body and at any other time at the call of the Chair. The Office of Management and Finance shall provide clerical staff.

**3.88.030 Duties.**

(Amended by Ordinance Nos. 167877 and 181483, effective January 18, 2008.) The Investment Advisory Committee shall advise the Commissioner In Charge, the Director of the Office of Management and Finance, the City Council and the City Treasurer of the City on: investment policies and investment practices of the City; maximum bank balances to be maintained by the City; and such other investment matters as the Commissioner in Charge of the Office of Management and Finance, the City Council or the Director of the Office of Management and Finance may request.

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**CHAPTER 3.90 - OFFICE OF MANAGEMENT  
SERVICES**

(Chapter repealed by Ordinance No. 174410,  
effective May 3, 2000.)

**CHAPTER 3.92 - BUREAU OF HUMAN  
RESOURCES**

(Chapter repealed by Ordinance No. 174410,  
effective May 3, 2000.)

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**CHAPTER 3.94 - OFFICE OF PLANNING  
AND DEVELOPMENT**

(Chapter amended by Ordinance No. 147789  
effective June 23, 1979 through June 30, 1982.)

**CHAPTER 3.95 - BUREAU OF ECONOMIC  
DEVELOPMENT**

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

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**CHAPTER 3.96 - OFFICE OF COMMUNITY  
& CIVIC LIFE**

(Chapter replaced by Ordinance No. 179418;  
amended by Ordinance No. 189078 effective July  
18, 2018.)

**Sections:**

- 3.96.010 Purpose.
- 3.96.020 Definitions.
- 3.96.030 Neighborhood Associations.
- 3.96.040 Functions of District Coalitions.
- 3.96.050 Responsibility of City Agencies.
- 3.96.060 Responsibilities of the Office of Community & Civic Life.

**3.96.010 Purpose.**

(Amended by Ordinance No. 189078, effective July 18, 2018.) This chapter creates a framework by which the people of the City of Portland may effectively participate in civic affairs and work to improve the livability and character of their Neighborhoods and the City. This Chapter sets out the basis for City recognition of Neighborhood Associations, District Coalitions, and the responsibilities and benefits accruing thereto. This chapter also sets out the basis for city acknowledgement of Business District Associations and the responsibilities accruing thereto. This chapter also creates the Office of Community & Civic Life and sets out its functions, duties and responsibilities. Nothing in this Chapter shall limit the right of any person or group to participate directly in the decision making processes of the City Council or of any City agency.

**3.96.020 Definitions.**

(Amended by Ordinance No. 189078, effective July 18, 2018.) As used in this Chapter the following terms have the meanings given them in this Section.

- A. **Neighborhood:** A geographically contiguous self-selected community.
- B. **Neighborhood Association:** An autonomous organization formed by people for the purpose of considering and acting on issues affecting the livability and quality of their Neighborhood, formally recognized by the Office of Community & Civic Life, and subject to Chapter 3.96.
- C. **District Coalition:** An organization which supports participation services for Neighborhood Associations and everyone within a geographically defined area, and is subject to Chapter 3.96.
  - 1. **Non-Profit District Coalition:** An independent non-profit corporation directed by a board which is primarily composed of representatives from its member Neighborhood Associations.



2. **City--Staffed District Coalition:** An office partially or fully staffed by City personnel to provide neighborhood services as advised by the participating Neighborhood Associations.
- D. Business District Association:** An autonomous non-profit organization with membership guidelines in its bylaws formed by people in business within a defined geographic boundary for the purpose of promoting the general well-being of their business community. A Business District Association is subject to Chapter 3.96.
- E. Office of Community & Civic Life:** An agency of the City of Portland, whose purpose is to facilitate citizen participation and improve communication among citizens, Neighborhood Associations, non-profit District Coalitions/City-staffed District Coalitions, City agencies, and other entities. The Office of Community & Civic Life is subject to these Standards.
- F. City agency:** Includes all departments, bureaus, offices, boards and commissions of the City of Portland.
- G. Standards:** Regulations adopted by City Council that govern Neighborhood Associations, District Coalitions, Business District Associations and the Office of Community & Civic Life.

**3.96.030 Neighborhood Associations.**

(Amended by Ordinance No. 189078, effective July 18, 2018.)

- A. Minimum Standards for Neighborhood Associations.** To receive and maintain formal recognition, Neighborhood Associations shall meet the Standards for neighborhood public involvement.
- B. Functions of Neighborhood Associations.** A Neighborhood Association may engage in, but is not limited to the following:
  1. Make recommendation(s) concerning a particular action, policy or other matter to any City agency on any topic affecting the livability, safety and economic vitality of the Neighborhood, including but not limited to land use, housing, community facilities, human resources, social and recreational programs, traffic and transportation, environmental quality and public safety; and,
  2. Assist City agencies in determining priority needs of the Neighborhood; and,
  3. Review items for inclusion in the City budget and make recommendations relating to budget items for Neighborhood improvement; and,

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4. Undertake projects and activities deemed appropriate by the Neighborhood Association; and,
5. Cooperate with other Neighborhood Associations and Office of Community & Civic Life to create District Coalitions.

**C. Responsibilities of Neighborhood Associations.**

1. Neighborhood Associations shall abide by the Standards established by the Office of Community & Civic Life.
2. Neighborhood Associations shall make a reasonable effort to include affected City agencies in planning activities which affect Neighborhood livability.

**D. Benefits to Neighborhood Associations.**

1. Any Neighborhood Association meeting the minimum requirements established by 3.96.030, upon request, is entitled to formal recognition and benefits from the Office of Community & Civic Life pursuant to the adopted Standards.
2. If a Neighborhood Association fails to meet the minimum requirements of 3.96.030, the Office of Community & Civic Life may, pursuant to the adopted Standards, suspend partial or all benefits to that Neighborhood Association and may ultimately revoke formal recognition of that Neighborhood Association.

**3.96.040 Functions of District Coalitions.**

(Amended by Ordinance No. 189078, effective July 18, 2018.) A District Coalition shall:

- A. Provide training and orientation, information and support services to Neighborhood Associations within the areas of Neighborhood Associations served;
- B. Facilitate communication between people and government;
- C. Promote public participation within the areas of Neighborhoods served on issues of livability, safety and public policy;
- D. Promote, encourage and support the participation of members of diverse communities within the areas of Neighborhoods served;
- E. Administer contracts or memorandums of understanding and operate the District Coalition in accordance with the adopted Standards; and
- F. Abide by the Standards established by the Office of Community & Civic Life.

**3.96.050 Responsibility of City Agencies.**

- A. City agencies shall notify all Neighborhood Associations affected by planning efforts or other actions affecting the livability of the Neighborhood(s).
- B. City agencies shall include affected Neighborhood Associations and District Coalitions in planning efforts which affect neighborhood livability.
- C. Notice of pending policy decisions affecting neighborhood livability shall be given to the Neighborhood Association(s) affected at least 30 days prior to final action on the decision by a City agency. If said 30 day period may injure or harm the public health, safety, welfare, or result in a significant financial burden to the City, this notice provision shall not apply.

**3.96.060 Responsibilities of the Office of Community & Civic Life.**

(Amended by Ordinance Nos. 186216, 187359 and 189078, effective July 18, 2018.) There is hereby established and created an Office of Community & Civic Life which shall consist of a Director and such other employees as the Council may from time to time provide. In order to facilitate participation and improved communication between the public, Neighborhood Associations, Business District Associations, District Coalitions and the City, the Office of Community & Civic Life shall:

- A. Assist Neighborhood Associations, District Coalitions and others in planning and developing programs for public involvement, crime prevention, dispute resolution and budget review;
- B. Act as an information clearinghouse and resource to Neighborhood and Business Associations, other groups and the public;
- C. Notify interested persons of meetings, hearings, elections and other public participation events of the Office of Community & Civic Life neighborhood system;
- D. Enter into, monitor, administer contracts, and memorandums of understanding for Neighborhood Associations through District Coalitions;
- E. Promote and facilitate open communication and notification from City agencies to Neighborhood Associations, District Coalitions, and Business District Associations, promote and facilitate communication amongst City agencies about public involvement best practices and policy;
- F. Support and promote public involvement within the Neighborhood Association framework;
- G. Adopt and revise such Standards as are deemed necessary for the implementation of this Chapter and for orderly public involvement in City government through

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Neighborhood Associations and District Coalitions. In so doing, the Office of Community & Civic Life shall seek representation from Neighborhood Associations, District Coalitions, Business District Associations, diverse community interests, city agencies that engage in considerable public involvement activities, and other interested people as necessary;

- H.** Pursuant to the adopted Standards, formally recognize a Neighborhood Association and/or acknowledge a Business District Association. If a Neighborhood Association or Business District Association fails to meet the minimum requirements of chapter 3.96, the Office of Community & Civic Life may suspend partial or all benefits and may ultimately revoke formal recognition of a Neighborhood Association or acknowledgement of a Business District Association;
- I.** Promote, encourage and support diverse and multicultural public involvement;
- J.** Establish open and fair grievance procedures for Neighborhood Associations, District Coalitions, and the Office of Community & Civic Life;
- K.** Establish open meetings and public records standards for Neighborhood Associations and District Coalitions;
- L.** Administer and enforce City Code Title 18, Noise Control; and
- M.** Other duties as assigned to the Office by Council.

**CHAPTER 3.98 - TOWING BOARD OF  
REVIEW**

(Chapter added by Ordinance No. 138941, effective  
October 10, 1974.)

**Sections:**

- 3.98.010 Created - Organization.
- 3.98.020 Procedure and Rules.
- 3.98.030 Staff.
- 3.98.040 Contracts - Rates.
- 3.98.050 Eligibility.
- 3.98.060 Powers of Board.
- 3.98.080 Appeals.

**3.98.010 Created - Organization.**

(Amended by Ordinance Nos. 143364, 149583, 157639, 168911, 172488 and 186746 effective August 6, 2014.)

- A.** There hereby is created a Towing Board of Review, hereinafter referred to as the Board, consisting of eight voting members and two nonvoting members. A quorum of the Board shall consist of five voting members.
- B.** The voting members of the Board shall be: the Director of the Portland Bureau of Transportation or an appropriate designee; the Executive Director of the Port of Portland or appropriate designee; the Chief of Police or an appropriate designee; the Traffic Engineer or appropriate designee; the Sheriff of Multnomah County or an appropriate designee; and three members of the general public with no affiliation with the towing industry, appointed by the Mayor, subject to confirmation by the City Council to serve for a period of 2 years. The Mayor shall designate one of the eight voting members to serve as the Chair, who shall so serve at the Mayor's pleasure.
- C.** The two nonvoting members shall be representatives of the towing industry appointed by the Mayor to serve for 1 year subject to confirmation by the Council.
- D.** All members of the Board shall serve without pay, except that they may receive their regular salary during the time spent on matters of the Board. A vacancy on the board shall be filled in accordance with the appointment procedures described above.
- E.** If any member of the Board is absent from more than three regularly scheduled meetings of the Board during a single calendar year, without having notified the Chair in advance of such absence, such member shall be deemed to have resigned

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from the Board and the position shall thereafter be vacant and subject to appointment.

**3.98.020 Procedure and Rules.**

The Towing Board of Review shall establish its own rules and bylaws, and provide the procedure for all matters for consideration or action by the Board.

**3.98.030 Staff.**

(Amended by Ordinance Nos. 153508, 157639 and 186746, effective August 6, 2014.) The Portland Bureau of Transportation shall provide staff and appropriate assistance for the Board.

**3.98.040 Contracts - Rates.**

- A. The Board shall determine the terms and content of the contracts the City will abide by in contracting for dispatching and towing services.
- B. The Board is empowered to hold public hearings to establish a fair rate of payment to be received for service performed under the various towing contracts and to determine the payment each towing company shall make to the dispatcher for services rendered.

**3.98.050 Eligibility.**

(Amended by Ordinance No. 153508, effective August 2, 1982.) The Towing Board of Review shall establish the terms, conditions, and contents of the City towing contracts, and the terms, conditions, and methods of selecting towing companies eligible for such contracts and able and willing to perform in accordance with the terms thereof, and shall certify to the Council the towing companies thereby eligible for a towing contract with the City.

**3.98.060 Powers of Board.**

The Board shall be responsible for reviewing the performance of the City's towing service contracts and to recommend to the Council any changes it feels necessary to promote the general purpose of establishing fair and equitable arrangements for the performance of tows requested by City personnel and the board shall be empowered to act on behalf of the City to:

- A. Oversee the operation of and inspect the equipment and personnel qualifications of all parties contracting with the City for towing or dispatching service to determine if they are in compliance with their contracts; and hear and investigate complaints regarding the City's towing contracts and the performance thereof.
- B. Establish dispatching district boundaries and lists of towing companies within each district eligible to be dispatched for tows:
  - 1. In establishing district boundaries, the Board shall consider;



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**CHAPTER 3.99 - FAIR WAGE POLICIES**

(Chapter added by Ordinance No. 174839, effective  
August 24, 2000.)

**Sections:**

- 3.99.005 Policy.
- 3.99.010 Covered Services and Agreements.
- 3.99.015 Compliance.
- 3.99.020 Adjustments.
- 3.99.030 Documentation of Fair Wage in Contracts.

**3.99.005 Policy.**

(Amended by Ordinance No. 187124, effective May 13, 2015.) It is the policy of the City of Portland that employees performing certain categories of work under formal contracts for janitorial services, for security services, and for parking garage attendant services with the City of Portland be guaranteed a minimum fair wage. City bureaus and operating units have the discretion to implement this policy in a reasonable manner.

**3.99.010 Covered Services and Agreements.**

(Amended by Ordinance No. 187124, effective May 13, 2015.) The Fair Wage Policy applies to formal contracts entered into by the City of Portland, in accordance with Portland City Code 5.33, for janitorial services, for security services, or for parking garage attendant services. No other agreement or contract entered into by the City of Portland shall be covered by this Chapter.

Exceptions to this Section may be approved via ordinance by a vote of the Council.

**3.99.015 Compliance.**

(Amended by Ordinance No. 187124, effective May 13, 2015.) City of Portland bureaus or operating units entering into contracts for covered services shall include the minimum hourly wage rate established in PCC 3.99 in all procurement announcements and resulting contracts. Contractors' compliance with the minimum wage requirements shall be monitored through submission of monthly certified payroll, mandatory employee notification of minimum wage rates via on-site postings, designation of bureau staff responsible for compliance monitoring and complaint resolution, and other measures deemed appropriate by the City bureau or operating unit. Contracts entered into by the City for covered services shall also include a non-retaliation clause protecting workers who assert wage claims based on this Chapter.

**3.99.020 Adjustments.**

(Amended by Ordinance Nos. 187124 and 190405, effective June, 18 2021.) State and Federal law sets the base minimum wage. Unless otherwise directed by Council, minimum wage shall be no less than \$15 per hour. The Office of Management and Finance shall provide City bureaus with a yearly minimum hourly wage rate for covered services which is anticipated to be adjusted annually by the change in the consumer price index identified



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for use by the City of Portland and provided by the City Economist or pursuant to the terms of a City collective bargaining agreement for such represented employees if it differs from the City Economist. The adjustment shall be effective for all contracts on July 1 of each year. In determining the adjustment amount, the Office of Management and Finance shall take into account the City's overall financial picture, and OMF shall not interpret this Code to require any increase which is inconsistent with the City's financial health and capabilities.

**3.99.030      Documentation of Fair Wage in Contracts.**

(Added by Ordinance No. 187124, effective May 13, 2015.) Contracts entered into by the City for covered services shall include in the agreement the minimum hourly wage rate at the time the contract becomes effective and at the annual adjustment date of July 1. For agreements and contracts not subject to Section 3.99.010, the City shall not rely upon, nor reference, this Chapter 3.99 in those agreements.

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**CHAPTER 3.100 - EQUAL OPPORTUNITY**

(Chapter replaced by Ordinance No. 144724,  
effective November 10, 1977.)

**Sections:**

- 3.100.005 City Policies Relating to Equal Employment Opportunity, Affirmative Action and Civil Rights.
- 3.100.030 Contractor Equal Employment Opportunity Program.
- 3.100.041 Contracts with City.
- 3.100.042 Certification of Contractors.
- 3.100.043 Information Required.
- 3.100.044 Compliance Review.
- 3.100.045 Denial, Suspension, Revocation.
- 3.100.050 Nondiscrimination in Contracting.
- 3.100.051 Policy regarding Benefits.
- 3.100.052 Definitions.
- 3.100.053 Discrimination in the provision of benefits prohibited.
- 3.100.054 Limitations.
- 3.100.055 Power and duties of the Director.
- 3.100.056 Severability of Provisions.
- 3.100.060 Grant Equal Opportunity Compliance Program.
- 3.100.061 Definitions.
- 3.100.062 Purpose.
- 3.100.063 Responsibility.
- 3.100.064 Compliance Monitoring.
- 3.100.065 Rules and Regulations.
- 3.100.080 Minority/Female Purchasing Program.
- 3.100.081 Definitions.
- 3.100.082 Purpose.
- 3.100.083 Liaison Officer.
- 3.100.084 Minority/Female Business Enterprise List.
- 3.100.085 Advertising.
- 3.100.086 Minority/Female Purchasing Associations.
- 3.100.087 Monitoring.
- 3.100.088 Certification.
- 3.100.089 Rules and Regulations.

**3.100.005 City Policies Relating to Equal Employment Opportunity, Affirmative Action and Civil Rights.**

(Substituted by Ordinance No. 165383; amended by Ordinance No. 171993, effective February 11, 1998.) The City of Portland has a compelling governmental interest in prohibiting discrimination in programs, activities, services, benefits and employment whether carried out by the City itself or through a contractor with whom the City arranges to carry out its programs and activities. In addition to provision found elsewhere in this

Code, provisions relating to equal employment opportunity, affirmative action and civil rights are specifically to be found in Chapter 4.02 and Chapter 23.01. The City of Portland's policies and programs relating to affirmative action are contained in its annual Affirmative Action Plan. Individual City bureaus may have specific programs designed to further the broad goals of equal employment opportunity, affirmative action and civil rights. It is unlawful to discriminate on the basis of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation or source of income in programs, activities, services, benefits, and employment whether carried out by the City of Portland, directly or through a contractor or any other entity with whom the City of Portland arranges to carry out its programs and activities except as allowed by federal law, rules and regulations.

- 3.100.010 Affirmative Action Program.**  
(Repealed by Ordinance No. 165383, effective April 29, 1992.)
- 3.100.011 Definitions.**  
(Repealed by Ordinance No. 165383, effective April 29, 1992.)
- 3.100.012 Policy.**  
(Repealed by Ordinance No. 165383, effective April 29, 1992.)
- 3.100.013 Objectives.**  
(Repealed by Ordinance No. 165383, effective April. 29, 1992.)
- 3.100.014 Management Commitment.**  
(Repealed by Ordinance No. 165383, effective April. 29, 1992.)
- 3.100.015 Regulatory Committee.**  
(Repealed by Ordinance No. 165383, effective April. 29, 1992.)
- 3.100.016 Bureau EEO Advisory Committees.**  
(Repealed by Ordinance No. 165383, effective April. 29, 1992.)
- 3.100.017 Reports and Audits.**  
(Repealed by Ordinance No. 165383, effective April. 29, 1992.)
- 3.100.018 Complaints of Discrimination.**  
(Repealed by Ordinance No. 165383, effective April. 29, 1992.)
- 3.100.019 Sanction.**  
(Repealed by Ordinance No. 165383, effective April. 29, 1992.)
- 3.100.020 Rules and Regulations.**  
(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

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**3.100.021 Identification of Handicapped.**

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

**3.100.022 Management Commitment.**

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

**3.100.023 Objectives.**

(Repealed by Ordinance No. 165383, effective April. 29, 1992.)

**3.100.030 Contractor Equal Employment Opportunity Program.**

(Caption added under authority of PCC Subsection 1.01.035 B. on November 4, 2020: Sections 3.100.041 through 3.100.045 contain regulations addressing Contractor Equal Employment Opportunity Program.)

**3.100.031 Definitions.**

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

**3.100.032 Contracts with the City.**

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

**3.100.033 Franchises.**

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

**3.100.034 Certification of Contractors.**

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

**3.100.035 Rules and Regulations.**

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

**3.100.036 Compliance by Contractors.**

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

**3.100.037 Denial or Revocation of Certification.**

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

**3.100.038 Compatibility with Other Rules.**

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

**3.100.039 State of Emergency.**

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

**3.100.040 Exemptions.**

(Repealed by Ordinance No. 171418, effective July 23, 1997.)

**3.100.041 Contracts with City.**

(Added by Ordinance No. 171418, effective July 23, 1997.)

- A. Equal Opportunity Employer.** An “Equal Employment Opportunity Employer” (“EEO Employer”) is one who does not engage in the discrimination prohibited by Section 3.100.005 of this Code and who is certified by the Bureau of Purchases as an EEO Employer.
- B. Contracts with EEO Employers.** The City has a compelling governmental interest to ensure that it is neither an active nor passive participant in legally prohibited discrimination. Therefore, the City will award contracts only to EEO Employers and will require that any subcontract to such contract be awarded to an EEO Employer. Any person, vendor, contractor, or entity of any type must be certified as an EEO Employer in order to be eligible to be awarded any contract from the City, unless the amount of all their contracts with the City total less than \$2,500 in any single fiscal year or unless the contractor has been exempted from such requirements as determined by the Bureau of Purchases. As used in the Code provisions regarding EEO Employers, the term “contractor” shall include all persons, contractors, vendors and entities who are required to obtain certification. In addition, all persons, vendors or entities that wish to be subcontractors on City awarded contracts shall be certified as EEO Employers unless the total of their subcontracts is less than \$2,500 in any single fiscal year or unless the subcontractor has been exempted from such requirements as determined by the Bureau of Purchases.
- C. Contracts Voidable.** Any contract between the City and a contractor who is not EEO certified or exempt from EEO certification requirements is voidable at the option of the City, regardless of whether the contractor was EEO certified when the contract was awarded or executed. Similarly, a contract is voidable if the contractor subcontracts a portion of the work to a subcontractor or supplier that is not EEO certified or exempt from EEO certification requirements.

**3.100.042 Certification of Contractors.**

(Added by Ordinance No. 171418, effective July 23, 1997.) The Bureau of Purchases is delegated the authority to adopt rules and regulations to establish criteria for certification, conditional certification, decertification, revocation, suspension and denial of EEO status to Contractors and Subcontractors, to administratively implement this program, to investigate complaints of prohibited discrimination, to conduct compliance reviews, and to establish rules of procedure it deems necessary in order to discharge its duties.

**3.100.043 Information Required.**

(Added by Ordinance No. 171418, effective July 23, 1997.) Contractors and Subcontractors shall provide all information requested by the Bureau to assist it in performing its duties under Section 3.100.042 of this Code.

**3.100.044 Compliance Review.**

(Added by Ordinance No. 171418, effective July 23, 1997.) If the Bureau of Purchases receives a complaint filed by any person or entity that alleges prohibited discrimination by

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a Contractor or Subcontractor, or when information comes into its possession indicating that a Contractor or Subcontractor may have engaged in prohibited discrimination, the Bureau may conduct a Compliance Review to determine whether the complaint or the information is correct. The purpose of the Compliance Review is to determine whether an EEO Certification should be revoked or suspended or whether a request for certification or recertification should be denied.

**3.100.045 Denial, Suspension, Revocation.**

(Added by Ordinance No. 171418, effective July 23, 1997)

- A.** Actions by Bureau. The Bureau may deny, suspend or revoke an EEO certification of the contractor or subcontractor if:
- 1.** Employs a workforce that shows underutilization of minorities and women, as reflected by their availability in the workforce, and thereafter fails to take positive steps to diversify its workforce after notification from the Bureau that such steps are required to maintain the EEO certification. Underutilization determinations shall be based on federal Title VII standards including the “Four-Fifths Rule” and “Manifest Imbalance” concepts;
  - 2.** Engages in discrimination prohibited by state, federal or local law;
  - 3.** Refuses to provide information to the Bureau of Purchases to determine whether it should be EEO certified or recertified;
  - 4.** Refuses to provide information when the Bureau is conducting a Compliance Review;
  - 5.** Intentionally provides false information to the Bureau in regard to its EEO certification or in response to the Bureau’s request for information; or
  - 6.** Intentionally employs subcontractors that are not EEO certified.
- B.** Appeal. EEO certification that has been denied, suspended or revoked may be appealed to the City Council by filing a written notice with the City Auditor within 10 days after the date of denial, suspension, or revocation. Action on such appeal shall be as directed by the City Council.
- C.** Enforcement. If no appeal to the City Council is filed within the time allowed, or if the appeal is denied by the City Council, the decision of the Bureau immediately shall go into effect.

**3.100.050 Nondiscrimination in Contracting.**

(Added by Ordinance No. 180077, effective May 19, 2006)

**3.100.051 Policy regarding Benefits.**

(Added by Ordinance No. 180077, effective May 19, 2006) It is the City's intent, through its contracting practices outlined herein, to spend public money through its contracts to equalize, to the extent possible, the total benefits between similarly situated employees with spouses and employees with domestic partners.

**3.100.052 Definitions.**

(Added by Ordinance No. 180077, effective May 19, 2006) As used in this Chapter unless the context requires otherwise:

- A. "Bureau" means the Bureau of Purchases.
- B. "Contract" means all formal solicitation contracts for Public Improvements and Construction Services authorized and executed pursuant to PCC Chapter 5.34, and all formal solicitation contracts for Goods and Services authorized and executed pursuant to PCC Chapter 5.33 and all formal solicitation contracts for Professional, Technical and Expert services (PTE) authorized and executed pursuant to PCC Chapter 5.68.
- C. "Director" or "Purchasing Agent" means the Director of the Bureau of Purchases or that person to whom those duties have been properly delegated.
- D. "Domestic Partner" means any person who is registered with his or her employer as a domestic partner, or, in the absence of an employer-provided registry, is registered as a domestic partner with a governmental body pursuant to state or local law authorizing such registration and who is in fact a current domestic partner with the person with whom that person was registered. Any internal employer registry of domestic partnership must comply with criteria for domestic partnerships specified by rule by the Bureau.
- E. "Employee benefits" means any plan, program or policy provided by an employer to its employees as part of the employer's total compensation package. This includes but is not limited to the following types of benefits: bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; pension and retirement benefits; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

**3.100.053 Discrimination in the provision of benefits prohibited.**

(Added by Ordinance No. 180077, effective May 19, 2006)

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- A.** No contractor on a City contract shall discriminate by policy or practice in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse, subject to the following exceptions:
- 1.** In the event that the contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a particular benefit for the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of employee benefits if the contractor conditions providing such benefit upon the employee agreeing to pay the excess costs.
  - 2.** The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular employee benefit to domestic partners, so long as the contractor provides the employee with a cash equivalent.
- B.** Other options for compliance allowed. Provided that a contractor does not discriminate in the provision of benefits between employees with spouses and employees with domestic partners, a contractor may:
- 1.** Elect to provide benefits to individuals in addition to employees' spouses and employees' domestic partners;
  - 2.** Elect to provide benefits in a manner unrelated to spousal or domestic partner status; or
  - 3.** Provide benefits neither to employees' spouses nor to employees' domestic partners.
- C.** Requirements inapplicable under certain conditions. The Director may waive the requirements of this chapter where it is found not to be in the best interest of the City. Examples of situations that require waiving the requirements of this chapter include but are not limited to:
- 1.** Award of a contract or amendment is necessary to respond to an emergency;
  - 2.** No compliant contractors are capable of providing goods or services that respond to the City's requirements;
  - 3.** The contractor is a public entity;
  - 4.** The requirements are inconsistent with a grant, subvention or agreement with a public agency;



- 5. The City is purchasing through a cooperative or joint purchasing agreement;
- D. Requests for waivers of the terms of this Chapter are to be submitted to the Bureau of Purchases in a manner prescribed by the Bureau. Decisions by the Bureau to issue or deny waivers are final.
- E. The Director may reject an entity's bid or proposal, or terminate a contract, if the Director determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.
- F. The City shall not execute a contract with a contractor unless such contractor has agreed not to discriminate in the provision of employee benefits as provided for in this chapter.
- G. All contracts awarded by the City shall contain provisions developed by the Bureau of Purchases prohibiting discrimination in the provision of employee benefits, including provisions containing appropriate remedies for the breach thereof as prescribed by Section 3.100.054, except as exempted by this chapter or rule.

**3.100.054 Limitations.**

(Added by Ordinance No. 180077, effective May 19, 2006) The requirements of this Chapter only shall apply to those portions of a contractor's operations that occur:

- A. Within the City;
- B. On real property outside of the City if the property is owned by the City or if the City has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the City; and
- C. Elsewhere in the United States where work related to a City contract is being performed.

The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or contractor.

**3.100.055 Powers and duties of the Director.**

(Added by Ordinance No. 180077, effective May 19, 2006) The Director of the Bureau of Purchases shall have the power to:

- A. Adopt rules and regulations, in accordance with this chapter and the Administrative Code of The City of Portland (PCC 3.02), establishing standards and procedures for effectively carrying out this chapter;
- B. Examine contractor's benefit programs covered by this chapter;
- C. Allow for remedial action after a finding of non-compliance, as specified by rule.

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- D.** Determine and impose appropriate sanctions and/or liquidated damages for violation of this chapter by contractors including, but are not limited to:
  - 1.** Disqualification of the contractor from bidding on or being awarded a City contract for a period of up to 3 years; and
  - 2.** Contractual remedies, including, but not limited to, termination of the contract.
- E.** Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;
- F.** Perform such other duties as may be required by ordinance or which are necessary to implement the purposes of this chapter.

**3.100.056 Severability of Provisions.**

(Added by Ordinance No. 180077, effective May 19, 2006) If any part or provision of this Chapter, or application thereof to any person or circumstance, is held invalid, the remainder of this Chapter and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

**3.100.060 Grant Equal Opportunity Compliance Program.**

**3.100.061 Definitions.**

(Amended by Ordinance No. 150738, effective December 13, 1980.) As used in this Section:

- A.** “Equal Opportunity” or “EO” means the concepts and practice of nondiscrimination on the basis of race, religion, color, national origin, sex, age or handicap in employment, purchasing, contracting, or utilization of firms or individuals on the basis of demographics as may be prescribed by grants awarded to the City of Portland by other governmental agencies.

**3.100.062 Purpose.**

(Amended by Ordinance No. 150738, effective December 13, 1980.) The purpose of the Grant Equal Opportunity Compliance Program is:

- A.** To provide a uniform and consistent review of all equal opportunity and labor standard requirements associated with grants from other governmental agencies to the City of Portland.
- B.** To establish guidelines, instructions, uniform reporting formats, related administrative support, and assistance necessary to comply with grant equal opportunity requirements.

- C. To provide a single, initial contact for grantor agencies and others seeking information about, or contact with, grantee bureaus or offices on EO matters.

**3.100.063 Responsibility.**

(Amended by Ordinance No. 150738, effective December 13, 1980.) Affected City agencies shall have responsibilities under this Section as follows:

- A. Federal Grants Coordinator shall submit all grant applications to the Contract and Grants Compliance Division for determination of equal opportunity requirements. No grant application shall be submitted to the City Council unless the Contract and Grants Compliance Division has reviewed the applicable equal opportunity requirements and obligations.

Following the award of any grant, the Federal Grants Coordinator shall provide the Contract and Grants Compliance Division with copies of the grant and applicable related documents.

- B. Contract and Grants Compliance Division shall serve as the point of contact for all communications relating to grant equal opportunity compliance, and shall review all grants as follows:
  - 1. Pre-Application. Before any grant application is submitted to the grantor agency, the equal opportunity provisions shall be reviewed to determine compliance requirements. A report of such review shall be submitted to the Federal Grants Coordinator.
  - 2. Post Award. Immediately after the award of any grant, the Contract and Grants Compliance Division shall advise the grantee bureau or office of applicable requirements and provide guidelines, instructions, forms, and assistance, as required to assist the bureau or office to implement compliance.
- C. Grantee Bureaus or Offices. Shall be fully responsible for compliance with all equal opportunity requirements imposed by applicable grants. In the discharge of such responsibility, grantee bureaus or offices shall cooperate fully with the Contract and Grants Compliance Division including, but not limited to, accumulation of applicable data, preparation of suitable records, and submission of such records and forms as may be required.

**3.100.064 Compliance Monitoring.**

(Amended by Ordinance No. 150738, effective December 13, 1980.) The Contract and Grants Compliance Division shall monitor the program at appropriate intervals to assure compliance with requirements. Where difficulties are noted, recommendations shall be made to the appropriate bureau, office supervisor or project manager.

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**3.100.065 Rules and Regulations.**

(Amended by Ordinance No. 150738, effective December 13, 1980.) The Contract and Grants Compliance Division shall establish and maintain suitable rules and regulations for administration of the Grant Equal Opportunity Compliance Program.

**3.100.080 Minority/Female Purchasing Program.**

(Amended by Ordinance No. 150738, effective December 13, 1980.)

**3.100.081 Definitions.**

(Amended by Ordinance No. 150738, effective December 13, 1980.) As used in this Section:

- A. **“Minority”** or **“minorities”** means Blacks, Hispanic Americans, Pacific Islanders, Asian Americans, American Indians, Aleuts and Eskimos.
- B. **“Members of Other Groups”** (MOG) means members of other groups or other individuals than those specified in A above, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)). These MOGs shall also be eligible to participate in this program.
- C. **“Minority business enterprise”** (MBE) means a business at least 50 percent of which is owned by minorities or, in the case of publicly owned business, at least 51 percent of the stock of which is owned by minorities and whose management and daily business operations are controlled by one or more such individuals.
- D. **“Female business enterprise”** (FBE) means a business at least 50 percent of which is owned by females or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by females and whose management and daily business operations are controlled by one or more individuals.

**3.100.082 Purpose.**

(Amended by Ordinance No. 150738, effective December 13, 1980.) The purpose of the Minority/Female Purchasing Program is to encourage and promote the sale of goods and/or services by minority and female business enterprises to the City of Portland. When such services are provided by federal funds encouraging or requiring MBE/FBE participation, the City shall take necessary action to comply with federal laws, regulations and contracting requirements.

**3.100.083 Liaison Officer.**

(Added by Ordinance No. 150738, effective December 13, 1980.) The designated Liaison Officer shall be the Purchasing Agent, who will be responsible for the day to day management of all elements of the program.

**3.100.084 Minority/Female Business Enterprise List.**

(Amended by Ordinance Nos. 150738 and 155018, effective August 25, 1983.) The Contract and Grants Compliance Division of the Office of Fiscal Administration shall establish and maintain a current list of minority/female business enterprises, with indications of product and service areas. Such lists shall be consulted when requests for quotations for supply of goods and/or services are received.

**3.100.085 Advertising.**

(Amended by Ordinance Nos. 150738 and 155018, effective August 25, 1983.) The Purchasing Agent shall advertise periodically in local publications (including the Daily Journal of Commerce, female and minority publications) that the City encourages bidding by MBEs and FBEs and that the City will assist such firms to understand and participate in formal bidding process.

**3.100.086 Minority/Female Purchasing Associations.**

(Amended by Ordinance Nos. 150738 and 155018, effective August 25, 1983.) The Purchasing Grants Compliance Division shall develop and implement certification and 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).
  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.

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- 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;
  - 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;



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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 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.)

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- 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 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

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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.

**CHAPTER 3.102 - PROPERTY TAX  
EXEMPTION FOR NEW CONSTRUCTION  
OF SINGLE-UNIT HOUSING IN  
HOMEBUYER OPPORTUNITY AREAS**

(Chapter replaced by Ordinance No. 185477,  
effective August 1, 2012.)

**Sections:**

- 3.102.010 Purpose.
- 3.102.020 Definitions.
- 3.102.030 Benefit of the Exemption; Annual Maximum Number of Exemptions.
- 3.102.040 Exemption Requirements.
- 3.102.050 Application Review and Approval.
- 3.102.060 Compliance.
- 3.102.080 Termination of the Exemption.
- 3.102.090 Implementation.

**3.102.010 Purpose.**

- A. The City of Portland adopts the provisions of Oregon Revised Statutes 307.651 through 307.687, and administers a property tax exemption program for new construction of single-unit housing authorized under those provisions.
- B. In addition to meeting the legislative goals set forth in ORS 307.654, the program also seeks to accomplish the following additional core goals:
  - 1. Stimulate the construction of affordable housing and other public benefits where such housing or benefits may not otherwise be made available.
  - 2. Leverage market activities to advance housing and economic prosperity goals by aligning those activities with the goals of the Portland Plan and the Portland Housing Bureau's Strategic Plan.
  - 3. Provide transparent and accountable stewardship of public investments.

**3.102.020 Definitions.**

(Amended by Ordinance No. 186700, effective July 1, 2014.) As used in this Chapter:

- A. **“Administrative Rules”** means the tax exemption program administrative rules developed by the Portland Housing Bureau and approved through City Council which set forth the program requirements, processes and procedures.
- B. **“Applicant”** means the individual who or entity which owns the property and is submitting an application for the tax exemption program and is legally bound to the

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terms and conditions of an approved tax exemption, including but not limited to any compliance requirements under this Chapter.

- C. “**Single-unit housing**” has the meaning set forth in ORS 307.651(4).

**3.102.030 Benefit of the Exemption; Annual Maximum Number of Exemptions.**

- A. Single-unit housing that qualifies for an exemption under this Chapter is exempt from property taxes to the extent provided under ORS 307.664 and the Administrative Rules.
- B. However, the Portland Housing Bureau may, upon action by City Council on an annual basis, determine a limit on the number of applications accepted under this Chapter.

**3.102.040 Exemption Requirements.**

(Amended by Ordinance No. 186700, effective July 1, 2014.) In order to be considered for an exemption under this Chapter, an applicant must verify by oath or affirmation in the application that the proposed construction will meet the following requirements and public benefits upon completion of construction:

- A. Property
1. Single-unit housing must be located within the City of Portland;
  2. Each qualified dwelling unit in the single-unit housing must have a market value at the time of completion of no more than the amount determined annually by Portland Housing Bureau according to ORS 307.651(3) and 307.661;
  3. Construction of the single-unit housing must be completed according to ORS 307.681(1), except as provided in ORS 307.374;
  4. Each qualified dwelling unit must sell to the initial homebuyer within two years of activation of the exemption;
  5. Each qualified dwelling unit must have at least three bedrooms unless built within an approved transit-oriented area as determined by the Portland Bureau of Planning and Sustainability and included on the map defining eligibility areas where two bedroom homes are allowed; and
  6. The single-unit housing must comply with all other requirements under the Code of the City of Portland.
- B. Affordability

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1. Each dwelling unit of the single-unit housing must be sold to a household with an annual gross household income not greater than one hundred percent of the area median income for a family of four as determined annually for the Portland Metropolitan Area by the United States Department of Housing and Urban Development, which income may be adjusted upward for households with more than four persons.
2. For the purposes of this program, household income is the annual gross income of the titleholder who will occupy the dwelling unit.

**C. Owner-Occupancy**

1. Once sold to the initial buyer, the dwelling unit shall remain owner-occupied as the principal residence of the titleholder receiving the tax exemption during the tax exemption period;
2. Hardship exception to the owner-occupancy requirement may be granted by the Portland Housing Bureau in accordance with its policies. Such hardship exceptions may include, but are not limited to, the following circumstances:
  - a. Active military duty outside of the area;
  - b. Temporary relocation to care for an ill or dying family member; or
  - c. Temporary relocation caused by an employer; and
3. The single-unit housing may not be rented at any time during the exemption period.

**D. Equity**

1. Applicant must acknowledge familiarity with Portland Housing Bureau's Minority, Women, and Emerging Small Businesses (MWESB) guidelines and contracting opportunity goals, and report on past contracting relationships.
2. Applicant must acknowledge awareness and understanding of Portland Housing Bureau's Guiding Principles on Equity and Social Justice and Strategic Priority of Helping Portlanders from Communities of Color buy a home and agree to partner with Portland Housing Bureau to assure that communities of color are aware of properties for sale with exemptions.

- E. Green Building.** The new construction must be built to meet healthy and resource efficient environmental building standards.

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- F.** Application Fee. The applicant must pay an application fee determined by the Portland Housing Bureau as described in ORS 307.674 (5).

**3.102.050 Application Review and Approval.**

- A.** The Portland Housing Bureau will review and approve or deny applications consistent with ORS 307.667 through 307.674.
- B.** Applicants must apply for the tax exemption prior to issuance of the building permit for the single-unit housing.
- C.** If construction of the single-unit housing is not completed within the timeframe described in ORS 307.674, Portland Housing Bureau may extend the deadline as consistent with ORS 307.677.
- D.** The issuance of final building permits shall indicate compliance with the Code of the City of Portland and shall be sufficient to meet the design standards as described in ORS 307.651(4)(a)
- E.** Any exemption under this Chapter must be approved by City Council by resolution, and Portland Housing Bureau will deliver a list of the approved applications to Multnomah County within the timeframe set forth in ORS 307.674.

**3.102.060 Compliance.**

(Amended by Ordinance Nos. 186700 and 188932, effective June 8, 2018.)

- A.** Upon approval, Portland Housing Bureau will record a notice on title of the property requiring Portland Housing Bureau verification of homebuyer eligibility and owner-occupancy qualification prior to the sale of each property to an initial homebuyer, as well as to subsequent purchasers throughout the duration of the exemption for any HOLTE applications approved after July 1, 2018.
- B.** Single-unit housing which sells to homebuyers who do not meet the affordability or owner occupancy qualifications, will have the tax exemption removed as of the next tax year.
- C.** Single-unit housing not meeting the exemption requirements by selling over the established sale price at initial sale will have the tax exemption terminated according to Section 3.102.080 and require the applicant to repay any exempted taxes consistent with ORS 307.687.

**3.102.070 Designation of Homebuyer Opportunity Areas.**

(Repealed by Ordinance No. 186700, effective July 1, 2014.)



**3.102.080 Termination of the Exemption.**

If the Portland Housing Bureau determines that the single-unit housing fails to meet any of the provisions of ORS 307.651 to 307.687 or this Chapter, the Portland Housing Bureau will terminate the exemption consistent with ORS 307.681 through 307.687.

**3.102.090 Implementation.**

Portland Housing Bureau may adopt, amend and repeal the administrative rules, and establish procedures, and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Chapter.

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**CHAPTER 3.103 - PROPERTY TAX  
EXEMPTION FOR MULTIPLE-UNIT  
HOUSING DEVELOPMENT**

(Chapter replaced by Ordinance No. 187283,  
effective August 5, 2015.)

**Sections:**

- 3.103.010 Purpose.
- 3.103.020 Definitions.
- 3.103.030 Benefit of the Exemption; Annual Maximum Exemption Amount.
- 3.103.040 Program Requirements.
- 3.103.050 Application Review.
- 3.103.060 Application Approval.
- 3.103.070 Rental Project Compliance.
- 3.103.080 For-Sale Unit Compliance.
- 3.103.100 Termination of the Exemption.
- 3.103.110 Implementation.

**3.103.010 Purpose.**

- A.** The City of Portland adopts the provisions of Oregon Revised Statutes 307.600 through 307.637, and administers a property tax exemption program for multiple-unit housing development authorized under those provisions.
- B.** In addition to meeting the legislative goals set forth in ORS 307.600, the program also seeks to accomplish the following additional core goals:
  - 1.** Stimulate the inclusion of affordable housing where it may not otherwise be made available.
  - 2.** Leverage market activities to advance housing and economic prosperity goals by aligning those activities with the goals of the Portland Plan and the Portland Housing Bureau’s Strategic Plan.
  - 3.** Provide transparent and accountable stewardship of public investments.

**3.103.020 Definitions.**

(Amended by Ordinance No. 188163, effective February 1, 2017.) As used in this Chapter:

- A.** “**Administrative Rules**” means the tax exemption program administrative rules developed by the Portland Housing Bureau and approved through City Council which set forth the program requirements, processes, and procedures.

- B.** “**Applicant**” means the individual or entity who is either the owner or a representative of the owner who is submitting an application for the tax exemption program.
- C.** “**Regulatory Agreement**” means a low-income housing assistance contract recorded agreement between the owner and the Portland Housing Bureau stating the approval and compliance criteria of a project’s tax exemption.
- D.** “**Multiple-unit housing**” has the meaning set forth in ORS 307.603(5).
- E.** “**Owner**” means the individual or entity holding title to the exempt project and is legally bound to the terms and conditions of an approved tax exemption, including but not limited to any Regulatory Agreement and any compliance requirements under this Chapter.
- F.** “**Project**” means property on which any multiple-unit housing is located, and all buildings, structures, fixtures, equipment and other improvements now or hereafter constructed or located upon the property.

**3.103.030 Benefit of the Exemption; Annual Maximum Exemption Amount.**

- A.** Multiple-unit housing that qualifies for an exemption under this Chapter is exempt from property taxes to the extent provided under ORS 307.612 and the Administrative Rules.
- B.** However, the maximum amount of estimated foregone tax revenue provided as a benefit of the exemption under this Chapter may not exceed the amount approved by Council.

**3.103.040 Program Requirements.**

(Amended by Ordinance Nos. 188163, 189302 and 190145, effective October 23, 2020.)  
In order to be considered for an exemption under this Chapter, an applicant must verify by oath or affirmation in the application that the project meets the following program requirements as further described in the program Administrative Rules:

- A.** Financial need for the exemption
  - 1.** Rental projects. The project would not include low to moderate-income units because it would not be financially feasible without the benefit provided by the property tax exemption.
  - 2.** For-sale projects. The units receiving tax exemption will be sold to buyers meeting the affordability requirements contained in this Section.
- B.** Property eligibility

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1. Projects must be located within the taxing jurisdictions of the City of Portland and Multnomah County.
2. Projects must conform to City of Portland's zoning and density requirements.
3. Projects must include 20 or more units.

**C. Affordability**

1. For rental projects, for applications received on or before December 31, 2018, during the term of the exemption, a minimum of 15 percent of the number of units or bedrooms must be affordable to households earning 80 percent or less of the area median family income, or a minimum of 8 percent of the number of units or bedrooms must be affordable to households earning 60 percent or less of the area median family income. For applications received after December 31, 2021, during the term of the exemption, a minimum of 20 percent of the number of units or bedrooms must be affordable to households earning 80 percent or less of the area median family income, or a minimum of 10 percent of the number of units or bedrooms must be affordable to households earning 60 percent or less of the area median family income. The units meeting the affordability requirements must match the unit mix in the project as a whole in terms of number of bedrooms.
2. For projects containing for-sale units, those units receiving the exemption must not exceed the maximum price established under City Code Section 3.102.040 at initial sale and must sell to an initial homebuyer who income qualifies and occupies the unit as established under City Code Section 3.102.040. During the term of the exemption, the unit must be occupied by a homebuyer as established under City Code Section 3.102.040.

- D. Accessibility.** At least 5 percent of the affordable units in the project must be built to be Type A as defined in the Oregon Structural Specialty Code.

**3.103.050 Application Review.**

- A.** The Portland Housing Bureau will review and approve or deny applications consistent with ORS 307.621.
- B.** Applications for tax exemption must be submitted and approved prior to issuance of the project's building permit.
- C.** Applications must include an application processing fee, to be established annually by the Portland Housing Bureau, including the fee to be paid to Multnomah County.

**3.103.060 Application Approval.**

(Amended by Ordinance No. 188163, effective February 1, 2017.)

- A. Applications will be considered based on the Inclusionary Housing Program requirements as per City Code Section 30.01.120.
- B. Portland Housing Bureau will take applications to City Council for approval in the form of an ordinance and deliver a list of the approved applications to Multnomah County within the timeframe set forth in ORS 307.621.
- C. If construction of an approved project is not completed or an application for exemption is not received within the timeframe described in ORS 307.637, Portland Housing Bureau may extend the deadline consistent with ORS 307.634.

**3.103.070 Rental Project Compliance.**

(Amended by Ordinance No. 188163, effective February 1, 2017.)

- A. The owner of a rental project approved for exemption will be required to sign a Regulatory Agreement to be recorded on the title to the property.
- B. During the exemption period, the owner or a representative shall submit annual documentation of tenant income and rents for the affordable units in the project to the Portland Housing Bureau.

**3.103.080 For-Sale Unit Compliance.**

- A. Approved applicants must execute a document to be recorded on title of the project requiring Portland Housing Bureau verification of homebuyer affordability and owner-occupancy qualification prior to the sale of each for-sale unit to an initial homebuyer.
- B. For-sale units which sell to homebuyers who do not meet the affordability or owner occupancy qualifications at initial sale will have the tax exemption removed as of the next tax year.
- C. For-sale units which sell over the established sale price at initial sale will have the tax exemption terminated according to Section 3.103.100 and require the owner to repay any exempted taxes consistent with ORS 307.631.

**3.103.090 Extension of the Exemption for Low Income Housing Projects.**

(Repealed by Ordinance No. 188163, effective February 1, 2017.)

**3.103.100 Termination of the Exemption.**

If the Portland Housing Bureau determines that the project fails to meet any of the provisions of ORS 307.600 to 307.637 or this Chapter, the Portland Housing Bureau will terminate the exemption consistent with ORS 307.627.

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**3.103.110 Implementation.**

Portland Housing Bureau may adopt, amend and repeal the Administrative Rules, and establish procedures, and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Chapter.

**CHAPTER 3.104 - PROPERTY TAX  
EXEMPTION FOR NEW, MULTIPLE-UNIT  
HOUSING**

(Chapter repealed by Ordinance No. 185477,  
effective August 1, 2012.)

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**CHAPTER 3.105 - BULL RUN ADVISORY  
COMMITTEE**

(Chapter added by Ordinance No. 143520; repealed  
by Ordinance No. 161853, effective May 27, 1989.)



**CHAPTER 3.106 -  
EXPOSITION-RECREATION COMMISSION**

(Chapter added by Ordinance No. 143806, effective  
June 15, 1977.)

**Sections:**

- 3.106.010 Commission Action.
- 3.106.020 Filing Copies of Resolutions with City Auditor.
- 3.106.030 Council Review.
- 3.106.040 Exposition - Recreation Commission Action Not Subject to Council Review.
- 3.106.050 Council Initiation of Exposition - Recreation Commission Action.
- 3.106.060 Amendment, Repeal or Alterations of Resolutions by Council.

**3.106.010 Commission Action.**

All action by the Exposition - Recreation Commission shall be by resolution adopted in accordance with the Commission's bylaws.

**3.106.020 Filing Copies of Resolutions with City Auditor.**

Within 5 days after the passage of any resolution, the Exposition - Recreation Commission shall file a copy of the resolution with the City Auditor, who shall maintain a special record of the Exposition - Recreation Commission's resolutions which shall be accessible to the public under like terms as ordinances of the City of Portland. Except as provided in Section 3.106.040, no resolution of the Exposition - Recreation Commission shall become effective until 5:00 p.m. on the 10th day following the filing of a copy thereof with the City Auditor.

**3.106.030 Council Review.**

Except as provided in Section 3.106.040, resolutions of the Commission shall not become effective, if, within 10 days after the filing by the Exposition - Recreation Commission of a copy of a resolution with the City Auditor, a member of the City Council files a request with the Auditor for City Council review of the Commission action. Upon receipt of a request for City Council review of Commission action, the City Auditor shall forthwith notify the General Manager of the Exposition - Recreation Commission of the request for review and shall deliver to him a copy of the request for review. The Auditor shall place the resolution on the Council agenda for Council review at the next regular Council meeting. In placing the resolution on the Council calendar, the Auditor shall act consistently with the regular filing deadline for Council calendar items established by this Code; provided, the Council may review any Exposition - Recreation Commission resolution as a four-fifths item, or under suspension of Council rules. At the time of requesting Council review of Exposition - Recreation Commission action, the Council member shall state the reason such review is necessary and what action the Council should take on the matters.

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**3.106.040 Exposition - Recreation Commission Action Not Subject to Council Review.**

(Amended by Ordinance No. 170667, effective October 23, 1997.) Resolutions of the Exposition - Recreation Commission which pertain solely to the following matters shall be effective upon adoption or at such other time as specified by the Commission.

- A. Scheduling the use of the Exposition - Recreation Commission's buildings and facilities.
- B. Entering into agreements for the use of the Exposition - Recreation Commission's buildings and facilities, including all of the terms and conditions of such agreements, provided such agreements do not transfer operation, management or control of the Memorial Coliseum.
- C. Personnel policy or matters of employment, dismissal or disciplining of employees.
- D. Purchasing supplies, consumables, and services and equipment, in accordance with a budget approved by City Council and in accordance with City Council purchasing procedures.

**3.106.050 Council Initiation of Exposition - Recreation Commission Action.**

The Council may, by regularly adopted ordinance, take action on behalf of the Commission. A Council member introducing an ordinance pertaining to the Exposition - Recreation Commission on the Council calendar shall, at the time of filing the proposed ordinance with the City Auditor, have a copy of the ordinance delivered to the General Manager of the Exposition - Recreation Commission.

**3.106.060 Amendment, Repeal or Alterations of Resolutions by Council.**

- A. Contracts and agreements entered into by the Exposition - Recreation Commission or on behalf of the Commission by employees or agents, within the scope of their authority, shall be binding and effective from the times designated in sections 3.106.030 or 3.106.040, whichever is applicable.
- B. The Council may, by regularly adopted ordinance, repeal, amend or alter any resolution adopted by the Exposition - Recreation Commission. Any such repeal, amendment or alteration may be made retroactive or prospective in effect but shall not be construed to invalidate any contract or agreements made in accordance with Subsection A of this Section.

**3.106.070 Special Services Personnel as Special Police.**

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

CHAPTER 3.107 - WATER QUALITY  
ADVISORY COMMITTEE

(Chapter added by Ordinance No. 161853, effective  
May 27, 1989.)

**Sections:**

- 3.107.010 Created - Appointments.
- 3.107.020 Duties.
- 3.107.030 Meetings.
- 3.107.040 Chairperson.
- 3.107.050 Rules - Quorum.
- 3.107.060 Staff.

**3.107.010 Created - Appointment.**

(Amended by Ordinance No. 168939, effective June 14, 1995.) There hereby is created the Water Quality Advisory Committee. The Committee shall consist of nine members, appointed by the Commissioner In Charge of the Bureau of Water Works and confirmed by the Council. Appointments shall be for terms of 3 years except that 4 of the initial appointments shall be for terms of 2 years. When a vacancy occurs, the Commissioner In Charge shall appoint and the Council shall confirm a member to fill a new 3-year term. The Commissioner In Charge of the Bureau of Water Works may remove a member from the Committee at any time, subject to approval by the Council. The Commissioner In Charge of the Bureau of Water Works shall appoint members to the Committee with expertise or association in areas such as water quality, water treatment, public health policy, the environmental community, civic and business organizations, major industrial or commercial users, neighborhood associations and the public at large of which at least 3 members shall have relevant technical expertise. Committee members may serve a maximum of two 3-year terms, with the 4 appointees serving the initial terms of 2 years to serve a total maximum of 5 years. Within the maximum service limit of 6 years the Council may extend, for a period of less than 3 years, the terms of committee members who were appointed to serve or who have served the balance of a retiring committee member's term. All members shall serve without compensation from the City.

**3.107.020 Duties.**

The Committee shall act in an advisory capacity to the City Council through the Commissioner In Charge of the Bureau of Water Works as follows:

- A. The Committee shall have the authority to offer policy advice to the Council and the Bureau of Water Works on issues such as management of the Bull Run Watershed, protection of groundwater quality, and other related water quality issues.
- B. The Committee shall have the authority to issue periodic reports to the Council and the Bureau of Water Works.

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- C. The Committee shall have the authority to inform the public at large and take public testimony before offering policy advice to the Council and the Bureau of Water Works.

**3.107.030 Meetings.**

The Committee shall have the authority to conduct public meetings to gather input; the Committee shall provide for notification no less than 5 days prior to the meeting to the general public.

**3.107.040 Chairperson.**

A chairperson shall be elected annually from among the Committee members by a majority vote of a quorum. The Chairperson shall serve for a period of 1 year. A vacancy in the Chairperson's position shall be filled from among Committee members by majority vote of a quorum as soon as practical after the vacancy occurs.

**3.107.050 Rules - Quorum.**

The Committee shall establish its own rules and provide procedures for consideration or action on all matters before the Committee. Such rules and procedures may be adopted and amended only upon an affirmative vote of five or more Committee members. Election of officers and regular business shall be passed upon by the majority of a quorum. Not less than five members shall constitute a quorum. Each member shall be entitled to one vote. Provisions shall be made for public participation in Committee meetings.

**3.107.060 Staff.**

The Committee shall be staffed by personnel from the Bureau of Water Works and such additional staff or consultants as may be deemed necessary by the City Council for the committee to fulfill its responsibilities.

**CHAPTER 3.110 - BUREAU OF  
HYDROELECTRIC POWER**

(Chapter added by Ordinance No. 147822, effective  
July 9, 1979.)

**Sections:**

- 3.110.010      Creation and Function.
- 3.110.020      Jurisdiction.

**3.110.010      Creation and Function.**

(Amended by Ordinance No. 161850, effective May 27, 1989.) There is hereby established a Bureau of Hydroelectric Power. The Bureau shall be administered by a Bureau Manager and shall have such other employees as the Council may provide. The Bureau shall supervise the construction and administer the operation of hydroelectric generating facilities owned by the City. It shall perform the duties and responsibilities required by any Federal Energy Regulatory Commission license and any agreements for the disposition of energy. The Bureau of Hydroelectric Power shall report to the Administrator of the Bureau of Water Works.

**3.110.020      Jurisdiction.**

The Bureau shall supervise the construction and administer the operation of the City owned hydroelectric power generating facilities.

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**CHAPTER 3.111 - OFFICE OF SUSTAINABLE  
DEVELOPMENT**

(Chapter repealed by Ordinance No. 182671,  
effective May 15, 2009.)

**CHAPTER 3.112 - SUSTAINABLE  
DEVELOPMENT COMMISSION**

(Chapter repealed by Ordinance No. 184046,  
effective September 10, 2010.)

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**CHAPTER 3.114 - OFFICE FOR  
COMMUNITY TECHNOLOGY**

(Chapter added by Ordinance No. 149053; amended  
by Ordinance Nos. 151338, 160424 and 184882,  
effective September 21, 2011.)

**Sections:**

- 3.114.010 Creation.
- 3.114.020 Functions.
- 3.114.030 Jurisdiction.
- 3.114.040 Policy.
- 3.114.050 Administration.

**3.114.010 Creation.**

(Amended by Ordinance Nos. 185568 and 186746, effective August 6, 2014.) There is hereby established an Office for Community Technology. The Office shall be supervised by a manager who shall report to the Director of the Revenue Division, as provided under Subsection 3.15.040 E., or the Director's designee. As used in this Chapter and elsewhere in the City Code when referring to the Office for Community Technology, the term "Director" shall mean the Director of the Revenue Division or the Director's designee. The Office shall have such other employees as the Council may provide.

**3.114.020 Functions.**

(Amended by Ordinance No. 181155, effective August 17, 2007.)

- A.** The Office shall be responsible for coordinating Citywide broadband planning, communications policy advocacy, technology grants and related consumer protection activities.
- B.** The Office shall be responsible for supervising and coordinating all franchising processes engaged in by the City, for monitoring the performance of all franchisees for franchise compliance and for performing all other necessary work relating to franchises in the City.
- C.** The Office shall be responsible for promoting the orderly development of City-owned or City-partnered broadband and cable communication systems, for providing staff support needed by the Mt. Hood Cable Regulatory Commission and for performing all other necessary work related to broadband planning, communications policy advocacy, related technology grants and cable communications in the City.
- D.** The Office shall be responsible for overseeing franchise and utility audits and revenues in coordination with the City Auditor's Office, the Office of Management and Finance and other City agencies and bureaus.



**3.114.030 Jurisdiction.**

- A. The Office shall have jurisdiction over all franchisees and utility licensees. The Office shall have jurisdiction over all public or private utilities or other entities seeking similar rights to use City rights-of-way.
- B. The Office shall have jurisdiction over all cable communications and broadband policy matters affecting the City of Portland.

**3.114.040 Policy.**

In order to establish and ensure a stable, predictable basis for long-term relations, it is the policy of the City of Portland that public or private utilities and other entities seeking similar rights to utilize City rights-of-way should be subject to franchise agreements with the City.

**3.114.050 Administration.**

(Added by Ordinance No. 185059, effective December 7, 2011.)

- A. In exercising the Office's jurisdiction under Subsection 3.114.030 A. over the use of City rights-of-way by franchisees, licensees and permittees, the Director may adopt procedures, forms, written policies, and rules to ensure orderly administration.
  - 1. Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will notify the public and affected franchisees, licensees, and permittees under the jurisdiction of the Office. Such notice, which may be provided by mail or electronic means, must be distributed not less than ten or 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 Office. Copies of all current rules will be posted on the Office's website and made available to the public upon request.

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3. Notwithstanding Subsections 3.114.050 A.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.

**CHAPTER 3.115 - MT. HOOD CABLE  
REGULATORY COMMISSION**

(Chapter replaced by Ordinance No. 181155,  
effective August 17, 2007.)

**Sections:**

- 3.115.010 Definitions.
- 3.115.020 Cable Regulatory Commission.
- 3.115.030 General Powers & Duties.
- 3.115.040 Portland Community Media.
- 3.115.060 Annexations.
- 3.115.070 Cable Television Consumer Protection.
- 3.115.080 Definitions.
- 3.115.090 Local Office and Office Hours.
- 3.115.100 Telephone Answering Standard.
- 3.115.110 Installations, Disconnections, Outages And Service Calls.
- 3.115.120 Notice Requirements.
- 3.115.130 Billing.
- 3.115.140 Reporting.

**3.115.010 Definitions.**

Unless the context indicates otherwise, words used in this Chapter have the following meanings:

- A. **"Agreement"** means the Intergovernmental Agreement creating the Mt. Hood Cable Regulatory Commission among and between the various Jurisdictions, dated December 24, 1992, including later amendments approved by the City Council.
- B. **"Commission"** means the Mt. Hood Cable Regulatory Commission.
- C. **"Franchise"** means an ordinance approved by the City Council authorizing use of the City's public right-of-way for operation of a cable communications system.
- D. **"Grantee"** means any person authorized by a franchise agreement to construct, operate and maintain a cable communications system within the City of Portland.

**3.115.020 Cable Regulatory Commission.**

(Amended by Ordinance No. 184882, effective September 21, 2011.)

- A. The City is a party to the Intergovernmental Agreement dated December 24, 1992, as modified by subsequent amendments, creating the Mt. Hood Cable Regulatory Commission. The Intergovernmental Agreement establishes the responsibilities and powers of the Commission, as delegated by the various participating

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jurisdictions. The City Council approved the City of Portland's participation in the MHCRC by Ordinance No. 166168, enacted on January 20, 1993.

- B.** As provided in the Agreement, the City is represented by three members on the Commission, appointed by the Commissioner in Charge of the Office for Community Technology and confirmed by the Council. Appointments are for staggered terms of 3 years. When an interim vacancy occurs, the Commissioner in Charge appoints, and the Council confirms, a member to fill the balance of the unexpired term. All members representing the City must be residents of the City. The Commissioner in Charge shall appoint members to the Commission so as to provide for an appropriate level of expertise taking into account the powers and duties of the Commission and in making appointments shall take into consideration the desirability of diverse representation, including without limitation, of racial and ethnic minorities, gender, different geographic areas, and different socioeconomic groups. All members shall serve without compensation from the City or from any grantee. No member may have an ownership interest in any grantee. The Commissioner in Charge may remove a member appointed by the City from the Commission at any time, subject to approval by the Council.

#### **3.115.030 General Powers & Duties.**

(Amended by Ordinance No. 184882, effective September 21, 2011.)

- A.** To the extent provided in the Agreement and in this Chapter, the Commission may exercise all cable communications system regulatory powers of the City over grantees operating within the City, whether such powers are granted to the City by law or under franchises issued to grantees.
- B.** The Commission shall act in an advisory capacity to the City Council through the Commissioner in Charge of the Office for Community Technology on all other matters pertaining to franchise agreements to construct, maintain and operate cable communications systems or proposed franchise agreements for such systems.
- C.** All powers granted to the Commission by the Agreement shall be subject to the provisions of franchises issued to grantees.. In the event of any conflict between the Agreement and a grantee franchise, the provisions of the franchise shall prevail.
- D.** The Commission may adopt such regulations as it deems necessary or desirable in order to exercise its powers and carry out its duties under the Agreement and this Chapter.

#### **3.115.040 Portland Community Media.**

(Amended by Ordinance No. 184882, effective September 21, 2011.) The Mayor and the Commissioner in Charge of the Office for Community Technology shall each appoint one member of the board of directors of Portland Community Media, for staggered terms of two years. All appointments shall be confirmed by the Council. In appointing these

directors, consideration shall be given to representation on the board of directors of the fields of arts, education, government, and community media; and of diverse representation including, without limitation, racial and ethnic minorities, non-English speaking people, gender, and low-income people. In addition, the Commission shall appoint one non-voting ex-officio director of the Portland Community Media board of directors.

**3.115.060 Annexations.**

- A.** In the event the City annexes territory for which another public body having jurisdiction to issue a franchise has issued a franchise to construct, operate and maintain a cable communications system, then franchisee's rights and obligations shall continue after annexation as they existed before annexation until expiration of that franchise, except that:
  - 1.** After annexation the City shall have all rights under the franchise of the issuing public body, including without limitation all rights to regulate, to collect and use franchise fees, regulation of system construction and operation within the annexed area, and rights to insurance, indemnification and other protections; and
  - 2.** After annexation the franchisee's obligations under the franchise regarding system construction and operation and other franchise requirements within the annexed area shall be to the City rather than to the issuing public body.
- B.** Nothing in this Section shall be deemed to modify the rights or obligations of the City or grantees under other franchises.

**3.115.070 Cable Television Consumer Protection.**

On behalf of the City, the Commission shall enforce the cable television consumer protection standards set forth in Sections 3.115.080 through 3.115.140.

**3.115.080 Definitions.**

Unless the context indicates otherwise, words used in Sections 3.115.080 through 3.115.140 have the following meanings:

- A.** **“Normal Business Hours”** means those hours during which most similar businesses in the City are open to serve customers. In all cases, Normal Business Hours must include some evening hours at least one night per week and some weekend hours.
- B.** **“Normal Operating Conditions”** means those service conditions which are within grantee's control. Conditions which are not within grantee's include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Conditions which are ordinarily within the grantee's control include, but are not limited to, special promotions, pay-

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per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system. Grantees must adjust staffing and operations to maintain compliance with the service standards in anticipation of events and conditions within grantee's control.

- C. **“Service Interruption”** means the loss of picture or sound on one or more cable channels.

**3.115.090 Local Office and Office Hours.**

Grantees shall have customer service center and bill payment locations open at least during Normal Business Hours. Grantees shall locate customer service center and bill payment offices at locations that are convenient to subscribers and the public. Grantee customer service centers must be adequately staffed and able to respond to subscribers and the public not less than 50 hours per week, with a minimum of nine hours per day on weekdays and five hours on weekends excluding legal holidays. As used herein, "adequately staffed" means customer service representatives are available to respond to customers who come to the service center in at least the following ways:

- A. To accept payments;
- B. To exchange or accept returned converters or other company equipment;
- C. To respond to inquiries; and
- D. To schedule and conduct service or repair calls.

**3.115.100 Telephone Answering Standard.**

- A. Cable system office hours and telephone availability. Grantees shall maintain a local, toll-free or collect call telephone access line which shall be available to its subscribers 24 hours a day, seven days a week. Grantees shall provide, in at least one prominent location, an easily identifiable telephone number for local customer service on all bills, account statements or statements of service to grantee subscribers. Toll-free telephone lines, either staffed or with answering capability, providing at least emergency referral information, must be operational 24 hours a day, including weekends and holidays. Grantee must have trained representatives available to respond to customer telephone inquiries during Normal Business Hours. After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received by grantee after Normal Business Hours must be responded to by a trained representative on the next business day.
- B. Telephone Answering Time. Under Normal Operating Conditions, telephone answer time by grantee's customer representatives including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be

transferred, transfer time shall not exceed thirty (30) seconds. Grantees shall meet these standards no less than ninety (90) percent of the time under Normal Operating Conditions, measured on a calendar quarterly basis.

- C. Busy Phones. Under Normal Operating Conditions, the customer shall receive a busy signal less than three (3) percent of the time.

**3.115.110 Installations, Disconnections, Outages And Service Calls.**

Under Normal Operating Conditions, grantees shall meet each of the following standards shall be met no less than ninety five (95) percent of the time measured on a quarterly basis:

- A. Standard installations shall be performed within seven (7) business days after an order has been placed.
- B. Under Normal Operating Conditions, grantee shall begin work on Service Interruptions promptly and no later than 24 hours after the interruption becomes known. Grantee must begin working on other service problems the next business day after notification of the service problem. Working on Service Interruptions must be more than merely acknowledging that a service interruption has occurred.
- C. The appointment alternatives for installations, service calls and other installation activities shall be either a specific time or, at maximum, a four-hour time block during Normal Business Hours. Grantee may schedule service calls and other installation activities outside of Normal Business Hours for the express convenience of the customer.
- D. Grantee shall be deemed to have honored a scheduled appointment under the provisions of this section when a technician arrives within the agreed upon time and, if the subscriber is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by the grantee.
- E. Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. Rescheduling an appointment is an independent obligation and does not necessarily excuse the missed appointment.
- F. If grantee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer shall be contacted. The appointment shall be rescheduled, as necessary, at a time which is convenient for the customer.

**3.115.120 Notice Requirements.**

(Amended by Ordinance No. 184882, effective September 21, 2011.)

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- A.** Notifications to subscribers. Grantee shall provide written information on each of the following areas at the time of service installation, at least annually to all subscribers, and at any time upon request:
1. Products and services offered;
  2. Prices and options for programming services and conditions of subscription to programming and other services;
  3. Installation and service maintenance policies;
  4. Instructions on how to use the cable service;
  5. Channel positions programming carried on the system; and,
  6. Billing and complaint procedures, including the address and telephone number of the City's Office for Community Technology.
- B.** Grantee shall notify customers of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the grantee. In addition, grantee shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by this Section. Grantees are not required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

**3.115.130 Billing.**

- A.** Bill Statements. Grantee bills shall be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills shall also clearly delineate all activity during the billing period, including optional charges, rebates and credits. In case of a billing dispute, grantee must respond to a written complaint from a subscriber within seven (7) calendar days.
- B.** Refunds. Grantee shall issue refund checks promptly to customers, but no later than either the customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier. Grantee may withhold a refund pending the customer returning the equipment supplied by grantee if service is terminated.
- C.** Credits. Grantee shall issue credits for service no later than the customer's next billing cycle following the determination that a credit is warranted.



**3.115.140 Reporting.**

Grantees shall file reports to the Commission on a quarterly basis showing the performance of grantee customer service standard obligations under Sections 3.115.080 through 3.115.140. The quarterly reports shall cover the periods January 1 through March 31; April 1 through June 31; July 1 through September 31; and October 1 through December 31. The reports shall be due no later than 30 days following the end of a quarter. The reports shall include, at a minimum, figures and narrative indicating performance of the following standards for:

Local office hours

Telephone call center hours

Telephone answering

Busy signal statistics

Standard installations

Service interruptions

Appointment windows: made, cancelled, and rescheduled

Notice requirements

Billing (refunds and credits)

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**CHAPTER 3.116 - WATERWAYS ADVISORY  
COMMITTEE**

(Chapter added by Ordinance No. 150413, effective  
September 17, 1980.)

**Sections:**

- 3.116.010 Created - Organization.
- 3.116.020 Procedures and Rules.
- 3.116.030 Duties.

**3.116.010 Created - Organization.**

(Amended by Ordinance Nos. 182671 and 184046, effective September 10, 2010.) There hereby is created an advisory committee to the Commissioner In Charge of the Bureau of Planning and Sustainability to be known as the Waterways Advisory Committee, consisting of not less than 7 nor more than 11 voting members who shall serve without compensation. The Commissioner In Charge shall appoint the members of the Committee, the members to serve for a term of 2 years at the pleasure of the Commissioner In Charge. The president of the Planning and Sustainability Commission or his or her representative shall be a member of the Committee.

**3.116.020 Procedures and Rules.**

The Waterways Advisory Committee shall establish its own rules, bylaws, and provide the procedure for all matters for consideration or action by the Committee. The Committee shall hold meetings at such time as is set by the body at any other time at the call of the Chairman.

**3.116.030 Duties.**

(Amended by Ordinance No. 184046, effective September 10, 2010.) Members of the Waterways Advisory Committee shall:

- A. Review any zoning Code amendment relating to waterways before it is presented to the Planning and Sustainability Commission, make its finds available to the Planning Commission and City Council;
- B. Review and comment to the Planning and Sustainability Commission and City Council on public or private riverfront development proposals that are potentially in conflict with the City's Greenway Plan.
- C. Identify opportunities for City encouragement of commercial, residential, recreational, transportation and educational development that fulfills public goals.
- D. Review the status of plans for publicly constructed segments of the Greenway path and suggest priorities for those segments.

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- E.** Make recommendations to the Planning and Sustainability Commission and City Council for the development of City procedure to facilitate applicants' needs for a speedy and certain regulatory process and City policies consistent with such a goal.
- F.** Make recommendations to the Planning and Sustainability Commission and City Council on City policies governing use and development of the City's waterways.

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**CHAPTER 3.120 - METROPOLITAN ARTS  
COMMISSION**

(Chapter added by Ordinance No. 157240; repealed  
by Ordinance No. 168592, effective March 8,  
1995.)

**CHAPTER 3.122 - ECONOMIC  
IMPROVEMENT DISTRICTS**

(Chapter replaced by Ordinance No. 164665,  
effective September 18, 1991.)

**Sections:**

- 3.122.010 Purpose.
- 3.122.020 Definitions.
- 3.122.030 Council Control.
- 3.122.040 Statutory Provisions Applicable.
- 3.122.050 Preliminary Institution of Economic Improvement District
- 3.122.060 Final Plan and Ordinance Preparation.
- 3.122.070 Consideration of Final Plan and Ordinance.
- 3.122.080 Notice to Owners.
- 3.122.090 Exemption Process.
- 3.122.100 Hearing and Resolution Establishing District.
- 3.122.110 Preparation and Notice of Assessments.
- 3.122.120 Hearing on Assessments.
- 3.122.130 Amendments to Ordinance.
- 3.122.140 Limitation on Assessments.
- 3.122.150 Limitation on Boundaries.
- 3.122.160 Continuation of Assessments.
- 3.122.170 Expenditure of Moneys.
- 3.122.180 Cost of Administration.
- 3.122.190 Limitation on Expenditures.
- 3.122.200 Administration
- 3.122.210 Early Termination.
- 3.122.220 Surplus.
- 3.122.230 Entry and Collection of Assessments.

**3.122.010 Purpose.**

The purpose of this Chapter is to establish procedures for the creation of two types of Economic Improvement Districts, one in which the assessment is mandatory and applied to all properties except Exempt Properties, the second type in which the property owner can decide whether to be assessed, a voluntary assessment, as authorized by state law. The City will be ultimately responsible for administering and operating any Economic Improvement District, although the administration and operation may be carried out by others under contract with the City. All costs of administering and operating any Economic Improvement District will be paid entirely from assessments and fees actually received from the District; the City will not pledge its credit on behalf of the District; and the City will not loan funds to the District.

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**3.122.020 Definitions.**

(Amended by Ordinance No. 189413, effective March 6, 2019.) The following words and phrases when used in this Chapter shall have the following meanings, except where the context requires a different meaning:

- A. “Advisory Committee”** means a committee of persons representative of the owners and tenants of property within an Economic Improvement District and may consist of an existing association of property owners or tenants or both.
- B. “Commissioner In Charge”** means the commissioner in charge of the lead bureau.
- C. “Economic Improvement”** means:
  - 1. The planning or management of development or improvement activities.
  - 2. Landscaping, maintenance and provision of security for public areas.
  - 3. The promotion of commercial activity or public events.
  - 4. The conduct of activities in support of business recruitment and development.
  - 5. The provision of improvements in parking systems or parking enforcement.
  - 6. Any other economic improvement activity that specially benefits property. “Economic improvement” does not include any services to be provided on private property.
- D. “Preliminary Economic Improvement Plan”** means a plan prepared by the property owners or tenants within the proposed District or their designees setting out:
  - 1. A description of economic improvements proposed to be carried out;
  - 2. The number of years, to a maximum of three, in which assessments are proposed to be levied;
  - 3. A preliminary estimate of annual cost of the proposed economic improvements;
  - 4. The proposed boundaries designated by map or perimeter description of an Economic Improvement District within which subject properties would be assessed to finance the cost of the economic improvements;
  - 5. The proposed formula for assessing the cost of the economic improvements against subject properties;

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6. A preliminary estimate of the cost of City administration of the proposed Economic Improvement District;
7. A statement whether the assessment will be a voluntary assessment or mandatory assessment, and
  - a. If voluntary, that the scope and level of improvements could be reduced depending upon the amount of money collected; or,
  - b. If mandatory, that the assessment will be considered a tax under the Oregon Constitution, Art. XI § 11b and it may be reduced to fit within the property tax limitation thereby affecting the scope and level of services described; and
8. A statement of why the proposed economic improvements are not likely to be satisfactorily and equitably accomplished except through establishment of an Economic Improvement District.

**E. “Final Economic Improvement Plan” means a plan setting out:**

1. A description of economic improvements to be carried out;
2. The number of years, to a maximum of three, in which assessments will be levied;
3. The annual cost of the proposed economic improvements;
4. The boundaries designated by map or perimeter description of the Economic Improvement District within which subject properties will be assessed to finance the costs of the Economic Improvement District;
5. The formula for assessing the cost of the economic improvements against subject properties;
6. A statement whether the assessment will be a voluntary assessment or mandatory assessment, and
  - a. If voluntary, that the scope and level of improvements could be reduced depending upon the amount of money collected; or,
  - b. If mandatory, that the assessment will be considered a tax under the Oregon Constitution, Art. XI § 11b and it may be reduced to fit within the property tax limitation thereby affecting the scope and level of services described; and
7. The cost of City administration of the Economic Improvement District.

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- F.** “**Lead bureau**” means the City office, bureau or commission determined by the Mayor to have the principal interest in a proposed Economic Improvement District.
- G.** “**Lot**” means a lot, block, or parcel or land.
- H.** “**Owner**” means the owner of the title to real property or the contract purchaser of record as shown on the last available complete assessment roll in the Office of the County Assessor.
- I.** “**Subject Properties**” means the real property within an Economic Improvement District except for Exempt Property.
- J.** “**Exempt Property**” means:
  - 1.** Residential real property and any portion of a structure used for residential purposes. In the event a structure is used for both residential and non-residential purposes, the land on which the structure is located shall not be Exempt Property. For purposes of this subsection, “residential real property” and “residential purposes” shall not include hotels and hotel uses, as defined in Section 33.12.420 of this Code, and motels and motel uses, as defined in Section 33.12.560 of this Code, but shall include hotel and hotel uses if, for the entire hotel or entire hotel use:
    - a.** The average rent per unit is less than \$2 per day, or
    - b.** A majority of the units regularly are occupied by the same tenants for more than 30 consecutive days, or
    - c.** A majority of the units regularly are occupied by occupants who pay for lodging on a monthly basis.
  - 2.** Property owned or being purchased by religious organizations including:
    - a.** All houses of public worship; and other additional buildings and property used solely for administration, education, literary, benevolent, charitable, entertainment, and recreational purposes by religious organizations, the lots on which they are situated, and the pews, slips, and furniture therein. However, any part of any house of public worship or other additional buildings or property which is kept or used as a store or shop or for any purpose other than those stated in this Section shall not be exempt property.
    - b.** Parking lots used for parking or any other use as long as that parking or other use is permitted without charge.



- c. Land and the buildings thereon held or used solely for cemetery or crematory purposes, including any buildings solely used to store machinery or equipment used exclusively for maintenance of such lands.

**K.** “**Task Force**” means a committee whose membership consists of representatives of those City offices, bureaus, and commissions that have a significant interest in a proposed Economic Improvement District and a representative appointed by the Advisory Committee. A representative designated by the Director of the Revenue Division shall be a member of each Task Force.

**3.122.030 Council Control.**

Whenever the Council determines that economic improvements would be appropriate and would afford a special benefit to subject properties within a particular District, the Council, subject to the provisions of this Chapter, may establish an Economic Improvement District and provide for payment of all or a portion of the cost by collection of assessments on either a mandatory or voluntary basis. The Council may decline for any reason within its sole discretion to establish a proposed Economic Improvement District. This Chapter shall not give to any person the right to have an Economic Improvement District established.

**3.122.040 Statutory Provisions Applicable.**

Statutory provisions applicable to Economic Improvement Districts shall be followed by the City and by owners in all cases. The provisions of this Chapter are intended to supplement and to implement the statutory provisions.

**3.122.050 Preliminary Institution of Economic Improvement District.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. The Council shall consider creation of an Economic Improvement District whenever owners of Subject Properties file with the Revenue Division a petition for the establishment of a District containing the signatures of the owners of 33 percent or more of the area or of the assessed value of subject properties within the proposed District or whenever a City Commissioner or the Mayor files a report recommending the establishment of a District. A petition or report shall contain a Preliminary Economic Improvement Plan.
- B. The Council may adopt a resolution directing the lead bureau to begin the Economic Improvement District formation process if the Council finds that:
  - 1. The costs of administering the proposed Economic Improvement District would not be substantial in relationship to the cost of the economic improvements;

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2. It is not likely that the economic improvements would be satisfactorily and equitably accomplished except through establishment of the Economic Improvement District;
  3. Establishment of the Economic Improvement District would be in the public interest;
  4. In the case of a District intended to impose a mandatory assessment, that the assessment can be accommodated within the property tax limitation and City budget; and
  5. The economic improvements would afford a special and peculiar benefit to subject properties within the Economic Improvement District different in kind or degree from that afforded to the general public.
- C. The resolution may contain such revisions to the preliminary economic improvement plan as the Council deems appropriate based on the criteria set out in Paragraphs 1 through 5 of this Subsection and shall designate those City offices, bureaus, and commissions to be represented on the task force for the proposed District.
- D. Upon adoption by the Council of a resolution under Subsection B of this Section, the Mayor shall designate a lead bureau for the proposed Economic Improvement District from among those designated to be represented on the task force and shall refer the matter to the Commissioner In Charge.
- E. Immediately following the referral under Subsection D of this Section, the Commissioner In Charge shall appoint an advisory committee to assist the task force in development of the final economic improvement plan. The Commissioner shall strongly consider appointment of owners of property within the Economic Improvement District to the advisory committee. The Commissioner may appoint as the advisory committee an existing association of property owners or tenants or both. The task force shall encourage participation of the advisory committee in the plan development and administration process. The advisory committee shall appoint a representative to the task force.

**3.122.060 Final Plan and Ordinance Preparation.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. Immediately following Council adoption of a resolution under Section 3.122.050 B, the head of each office, bureau and commission to be represented on the task force shall appoint its representative and notify the head of the lead bureau of the appointment.

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- B.** The Revenue Division’s representative shall provide to the task force a report setting out:
- 1.** Whether the petitioners under Section 3.122.050 A are owners of subject property in the proposed District;
  - 2.** Delinquencies in taxes or City liens on subject properties in the proposed District;
  - 3.** The true cash value of all real property located within the proposed District; and
  - 4.** The zoning of land within the District, including verification that only land zoned for commercial or industrial use is included within the District.
- C.** The lead bureau shall be responsible for preparing the documents referred to in Subsection D.
- D.** The task force shall prepare for the Commissioner In Charge a report recommending whether the owners of property within the proposed Economic Improvement District shall be formally notified of the proposal to establish the District, taking into consideration the criteria set out in Section 3.122.050 B. If the report recommends formal notification, the report shall include a proposed Final Economic Improvement Plan and the report of the Revenue Division’s representative provided under Subsection B. The report also shall include a proposed ordinance that:
- 1.** States the Council’s intention to proceed with formal notification regarding the proposed Economic Improvement District;
  - 2.** States whether the assessments will be mandatory or voluntary;
  - 3.** Contains the information in the Final Economic Improvement Plan, which may be included by attachment of the Plan as an exhibit; and
  - 4.** Directs notice to be given in the manner provided by PCC 3.122.080.

**3.122.070 Consideration of Final Plan and Ordinance.**

- A.** If the Commissioner in Charge deems it appropriate, the Commissioner shall file for Council consideration the report and ordinance prepared under Section 3.122.060 D.
- B.** On consideration of the report and ordinance, the Council may approve, modify, or reject the report including any aspect of the Final Economic Improvement Plan, and the ordinance. If the Council determines that the proceedings for the proposed

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Economic Improvement District should go forward, the Council shall adopt the ordinance including any modifications.

**3.122.080 Notice to Owners.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A.** Following adoption of the ordinance under Section 3.122.070 B, the Revenue Division shall mail notice to the property owners within the proposed Economic Improvement District which contains the following information:
- 1.** The Council's intent to form an Economic Improvement District.
  - 2.** Benefitted properties will be assessed unless it is a voluntary assessment in which case only property owners who specifically request to be assessed will be assessed. An owner who fails to submit a written objection before or at the public hearing on assessment shall be deemed to have made a specific request to be assessed.
  - 3.** The formula for determining the amount of the assessment.
  - 4.** The scope of the improvements and that the description of the boundaries of the proposed District and the full scope of the project are on file with the Revenue Division and where the file can be viewed. It should state that:
    - a.** In the case of a voluntary assessment the scope and level of the improvements may be reduced depending on the amount of money collected; or
    - b.** In the case of a mandatory assessment the scope and level of the improvements may be reduced if the amount of the assessment is compressed to fit within the property tax limitation imposed by the Oregon Constitution, Art. XI § 11b.
  - 5.** The estimated cost of the proposal, and that it may be reduced to the amount of money actually received.
  - 6.** The date, time and place of the hearing and that the proposal could be modified as a result of public testimony.
  - 7.** The classification or types of properties which are exempt and that a request for an exemption on an enclosed form must be filed not later than 21 days after the notice is mailed.
  - 8.** In the case of a voluntary assessment that it is an incurred charge and is not a tax and is a charge outside the property tax limitations in the Oregon Constitution, Art. XI, §11b.

**3.122.090 Exemption Process.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A.** Property within the proposed District is conclusively presumed subject to assessment unless the owner files with the Revenue Division a claim for exemption not later than 21 days after the date of mailing or personal delivery of the notice.
- B.** The Revenue Division, in its discretion, may examine a claim or claims for exemption to determine whether property claimed to be exempt from assessment is exempt property. The examination may include review of such evidence as the Revenue Division deems appropriate and may include a viewing of the property. In the event the Revenue Division determines that the property for which an exemption is claimed is not exempt, the Revenue Division shall give the owner written notice of the determination and the reasons, by mail or personal delivery. The notice shall give the owner 10 days time within which to provide written evidence as to why the property is exempt. In the event the owner provides no written evidence within the time allowed, the property conclusively shall be presumed not to be exempt property. In the event the owner submits written evidence, the Revenue Division shall review the evidence and either approve or disapprove the claim for exemption and provide written notice to the owner, including a statement of the reasons for the Revenue Division's decision. The Revenue Division's approval or disapproval following review of the evidence shall be final.

**3.122.100 Hearing and Resolution Establishing District.**

- A.** The Council shall hold a public hearing on the proposed Economic Improvement District at the time and place stated in the notice to owners of properties. The public hearing shall be held no sooner than 30 days after mailing the notice. The Council may continue the hearing to such other time and place as it may deem appropriate. At the hearing, persons supporting or objecting to the proposed improvement and assessment shall be entitled to be heard.
- B.** If the Council, at the conclusion of the hearing, finds that the economic improvements will afford a special and peculiar benefit to subject properties within the Economic Improvement District different in kind or degree from that afforded to the general public and that the Economic Improvement District should be established, then the Council may adopt a resolution stating those findings and establishing the District.

**3.122.110 Preparation and Notice of Assessments.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A.** Following Council adoption of a resolution establishing an Economic Improvement District based on the final Economic Improvement Plan, the Revenue Division shall

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prepare the proposed assessment for each lot in the District that is a subject property and shall file a proposed assessment ordinance, with a list of proposed assessments attached, with the City Council. The amount of assessment shall be based on the cost of the economic improvements and the cost of City administration of the Economic Improvement District.

- B.** Following preparation of the proposed assessments, the Revenue Division shall mail to the owner of each lot to be assessed a notice containing the following information:
1. The description of the property being assessed.
  2. The name of the District and whether it is a voluntary or mandatory assessment. In the case of a voluntary assessment a statement that the property will be assessed unless the property owner specifically requests in writing not to be assessed.
  3. The length of the District and the total cost of the project, the assessment formula, and the amount of the assessment on the property.
  4. The assessment will not change unless the Council finds it exceeds the benefit of the improvements, but the total amount and scope of the improvements and level of services could change to correspond to the amount of money collected. Further, the scope of the improvements and level of services could change as a result of the testimony.
  5. The time, date and place of the hearing and that the following forms of objection may be filed:
    - a. A written objection to being assessed in which case no assessment will be placed on the property if it is a voluntary assessment. An owner who fails to submit a written objection before or at the public hearing shall be deemed to have made a specific request for the economic improvement service to be provided during the time specified in the assessment ordinance;
    - b. An objection to the amount of the assessment on the grounds it is incorrect or exceeds the amount of benefit; and
    - c. An objection to the formation of the District.
  6. A written objection may be filed with the Revenue Division prior to the hearing or made orally at the hearing. An objection to the assessment must explain the reasons the assessment is incorrect or exceeds the amount of benefit.

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7. The assessment is due and payable immediately, and whether it may be paid in installments. The amount of interest if any and the fact there will be billing charges. The unpaid balance will become a lien on the property and failure to pay could result in foreclosure.
8. A voluntary assessment is an incurred charge and is a charge outside the property tax limitation imposed by the Oregon Constitution, Art. XI, §11b.
9. Property included in the District and assessed cannot be withdrawn from the District and the assessment will continue through the life of the District.
10. The name and phone number of a City staff person who can answer questions.

**3.122.120 Hearing on Assessments.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. The Council shall hold a public hearing on the proposed assessment ordinance. The public hearing shall be held no sooner than 30 days after mailing the notice. The Council may continue the hearing to a date and time certain. At the hearing, property owners supporting or objecting to being assessed, to the amount of the assessment or to the formation of the District, shall be entitled to be heard.
- B. Written objections shall be considered to have been received by the Council at the hearing if actually received at the hearing or if received by the Revenue Division prior to commencement of the hearing. A written objection signed by a person purporting to have authority as agent or attorney to sign an objection on behalf of an owner shall be considered received from the owner only if there is included with the objection a copy in writing of the authority to act on behalf of the owner.
- C. If the Council at the hearing receives written objections to the formation of the District from owners of property upon which more than 33 percent of the total value of assessments are levied, then the Economic Improvement District shall not be established and assessments shall not be made.
- D. At the hearing, the Council shall consider any objections and may adopt, correct, modify, revise the proposed assessment ordinance. In the case of a voluntary assessment, the Council shall exclude from assessment property which the owner has requested be omitted from assessment. The request shall be made in writing and submitted prior to the close of the hearing.

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**3.122.130 Amendments to Ordinance.**

- A.** At the hearing under Section 3.122.100, the Council may amend by ordinance the initial ordinance adopted under Section 3.122.070. The procedures required by Sections 3.122.080 and 3.122.100 shall be repeated if the amendment:
  - 1.** Changes the economic improvements to be carried out except this provision shall not apply to a voluntary assessment;
  - 2.** Increases the likely assessment upon one or more properties; or
  - 3.** Enlarges the Economic Improvement District;
- B.** At the hearing under Section 3.122.120, the Council may amend by ordinance the initial ordinance adopted under Section 3.122.070 as subsequently amended. If the amendment increases the likely assessment upon one or more properties, then the procedures required by Sections 3.122.110 and 3.122.120 shall be repeated. The procedures required by Section 3.122.080 through 3.122.120 shall be repeated if the amendment:
  - 1.** Changes the economic improvements to be carried out except this provision shall not apply to a voluntary assessment; or
  - 2.** Enlarges the Economic Improvement District.

**3.122.140 Assessments.**

- A.** The Council shall not levy assessments in an Economic Improvement District in any year that exceed one percent of the true cash value of all the real property located within the District.
- B.** Any new owner of benefitted property or any owner of benefitted property who excluded the property from assessment by submitting written objections may subsequently agree to the assessment of the property. The Council shall apply the assessment formula to the property and apportion the costs to the property for the remaining time in which the assessment is levied.
- C.** The assessed property may not be relieved from liability for that assessment for any reason including change of ownership.

**3.122.150 Limitation on Boundaries.**

The Council shall not include within an Economic Improvement District any area of the City that is not zoned for commercial or industrial use.



**3.122.160 Continuation of Assessments.**

If the Council has established an Economic Improvement District and thereafter determines that it is necessary to levy assessments upon subject property in the District for longer than the period of time specified in the assessment ordinance that created the District, the Council shall enact an ordinance that provides for continued assessments for a specified number of years, to a maximum of three. The assessment of lots under such an ordinance shall be subject to the procedures required by Sections 3.122.110 and 3.122.120.

**3.122.170 Expenditure of Moneys.**

Money derived from assessments levied under this Chapter and from interest earned on that money shall be spent only for the economic improvements and for the cost of City administration of the Economic Improvement District described in the final Economic Improvement Plan. Subject to the requirements of any labor agreements to which the City is a party and to any applicable requirements of state law, the Council in its discretion may authorize an agreement or agreements with the advisory committee appointed under Section 3.122.050 D for the committee to provide all or part of the economic improvements described in the final economic improvement plan.

**3.122.180 Cost of Administration.**

The cost of City administration of an Economic Improvement District shall include the actual cost of administrative services provided by the City related to the District.

**3.122.190 Limitation on Expenditures.**

Money spent for carrying out a final Economic Improvement Plan shall be limited to money actually received from assessments or from other public or private contributions to assist in carrying out the Plan.

**3.122.200 Administration.**

The task force for an Economic Improvement District shall be responsible for administration of the economic improvements to be carried out. With the concurrence of the head of the lead bureau, the task force may designate an employee of the lead bureau as the person responsible for day to day administration of the economic improvements. In the event the task force determines that the economic improvements should be performed by a contractor or contractors, the task force shall prepare for Council consideration contracts for the work. In each case, the contract for work shall include not less than the following:

- A. A description of the work to be done;
- B. A description of the method of compensation for the work;
- C. A description of records to be kept by the contractor to evidence performance of the work and of the documentation to be provided to the City to justify payment for work;

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- D. A description of any liability to be born and insurance to be provided by the contractor; and
- E. A description of the rights of the City to terminate the contract prior to its completion.

**3.122.210 Early Termination.**

The City Council may terminate the activities of an Economic Improvement District in whole or in part prior to the normally scheduled termination date for the District by an ordinance. However, all applicable contract issues shall be resolved before activities are terminated. In the event of early termination, those funds remaining from assessments for the District, following payment of all obligations and costs of administration incurred on behalf of the District, shall be returned to the owners of subject properties in amounts proportionate to the amounts of the assessments they paid for the District. In the event of early termination of only a part of the activities of an Economic Improvement District, the City Council, in the termination ordinance, may elect to apply remaining funds on a similarly proportionate basis as a credit against future District assessments against subject properties, with any funds remaining being returned to the owners as otherwise provided herein.

**3.122.220 Surplus.**

In the event, following the normally scheduled termination of an Economic Improvement District, including the payment of all obligations and costs of administration incurred on behalf of the District, there remain excess funds from assessments paid by owners of subject properties, then the City Council, by ordinance, shall provide for either:

- A. The return of the excess funds to the owners of subject properties in amounts proportionate to the amounts of the assessments they paid for the District;
- B. Use of the excess funds for continued provision of the economic improvements until the excess funds are fully spent; or
- C. Use of part of the excess funds as provided in B and return of the balance of the excess funds as provided in A.

**3.122.230 Entry and Collection of Assessments.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. On adoption of an assessment ordinance under Section 3.122.120 D, the Revenue Division shall enter each assessment in the docket of City liens. All such assessments shall be collected in the same manner as local improvement assessments and failure to pay may result in foreclosure in the same manner as provided for other assessments.

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- B.** The assessments may be paid in semi-annual payments, however the City may charge a billing fee.

**3.122.240 Economic Improvement Fund.**  
(Repealed by Ordinance No. 170223, effective July 1, 1996.)

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**CHAPTER 3.123 - PORTLAND UTILITY  
BOARD**

(Chapter replaced by Ordinance No. 187174,  
effective July 31, 2015.)

**Sections:**

- 3.123.010 Created - Purpose.
- 3.123.020 Scope.
- 3.123.030 Membership.
- 3.123.040 Appointments - Composition.
- 3.123.050 Terms.
- 3.123.060 Standing Committees.
- 3.123.070 Staffing.
- 3.123.080 Meeting Schedule.
- 3.123.090 By-Laws.
- 3.123.100 Annual Report and Work Session.

**3.123.010 Created - Purpose.**

A Portland Utility Board is hereby created. The Board's purpose is to advise the City Council, on behalf of and for the benefit of the citizens of Portland, on the financial plans, capital improvements, annual budget development and rate setting for the City's water, sewer, stormwater, and watershed services. The Board will advise Council on the establishment of fair and equitable rates, consistent with balancing the goals of customer needs, legal mandates, existing public policies, such as protecting water quality and improving watershed health, operational requirements, and the long-term financial stability and viability of the utilities.

**3.123.020 Scope.**

- A.** The Portland Water Bureau and the Bureau of Environmental Services use multi-year financial planning to prioritize programs and to project operating and capital costs associated with policies and programs, and to estimate overall rate impacts. The Board will fully participate in the bureaus' financial planning and budgeting processes. The Board will work with the bureaus to develop long-term, 20-year mission plans. The bureaus update their financial plans throughout the year to reflect significant changes in revenues or requirements, and revise the plans annually. The Board will review the proposed financial plans and revisions, and submit its findings and recommendations to the Council as part of the City's annual financial planning process. The Board will actively monitor bureau spending through the fiscal year and be briefed on final fiscal year accounting including status of debt load and rate stabilization funds. The Board will monitor bureau and City Council responses to and implementation of audits, in consultation with the Commissioner(s)-in-Charge. The Board will monitor City Council budget amendments, capital improvement plans (CIP) and implementing actions

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throughout the fiscal year. The Board will participate in evaluating the performance of the bureaus. The bureaus will engage with the Board throughout the fiscal year when developing budgets. The Board may serve, at the Mayor's pleasure, as an advisor in the development of Mayor's budgets for the Portland Water Bureau and the Bureau of Environmental Services.

- B.** The Board will periodically consult the bureaus and the Commissioner(s)in-Charge on strategic communications, public education and involvement, as well as review audits and other reports. The Board will identify and report to the Commissioner(s)-in-Charge, the Mayor or the Council on important issues and challenges for the Portland Water Bureau and the Bureau of Environmental Services. The Board will monitor the bureaus' efforts to achieve equity in the provision of services throughout the City.
- C.** Participate in the rate design process: The Board will report on proposed rate changes to the Council during the annual budget hearings and development processes for water, sanitary sewer, watershed health, and stormwater. The Board shall report on other city activities or proposed policies with significant impacts to water, sanitary sewer, and stormwater rates.
- D.** When the bureaus form other advisory groups on utility matters such as facility or project specific concerns, the Board and its staff will exchange information with these other advisory groups to coordinate policy advice to the Council and the bureaus.
- E.** Relationship to other interested parties: The Board's primary responsibility and duties are to advise the Council, and its deliberations and recommendations shall be directed to Council accordingly. The Board may also share the results of its deliberations and recommendations delivered to Council with interested individuals and groups including neighborhoods, business associations, and public interest groups.

**3.123.030 Membership.**

(Amended by Ordinance No. 188015, effective September 29, 2016.) The Board shall have 11 permanent members. Board members shall be appointed by the Mayor in consultation with the Commissioner(s)-in-Charge of the bureaus, and confirmed by the Council. Any Council member may submit nominations to the Commissioner(s)-in-Charge. In consultation with the Commissioner(s)-in-Charge, the Mayor shall appoint the Chair of the Board. Six members shall constitute a quorum of the Board. Board members serve without compensation, except they may receive from their employer their regular salary during time spent on Board matters.

**3.123.040 Appointments - Composition.**

(Amended by Ordinance No. 188015, effective September 29, 2016.)

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- A.** General Criteria. All members must reside in or work predominantly in the city of Portland and have an interest in water, sewer, stormwater, and watershed health issues, such as system development and maintenance, service delivery, service costs and impacts on low-income households, economic development, public health, conservation, green infrastructure or the environment. In making Board appointments, the Mayor and Council shall strive to have a Board which reflects the diversity of the Portland community, including, but not limited to, the following factors: areas of expertise, advocacy, experience, community involvement, profession, education and/or, economic status. Preferred appointees should have a range of qualified professional and academic expertise, and community volunteer experience. Appointees will include a current employee in a represented bargaining unit with the Portland Water Bureau or the Bureau of Environmental Services. Skills that will serve the Board well include: technical knowledge of water, stormwater, and sewer utility operation and issues, accounting, civil engineering, conservation, environmental sciences, equity, health sciences, public administration, urban planning, or utility economics, financial and capital improvement analysis, ecosystem science, environmental protection, political process, group process, and communications.
- B.** Restrictions. No individual with any direct financial interest in either city utility other than as a rate-paying customer or as an employee of the utility bureaus.
- C.** The Mayor shall, in consultation with the Commissioner(s)-in-Charge, appoint three non-voting, ex officio members annually, to engage utility bureau employees in the budget process. The ex officio members shall be one represented and two non-represented utility bureau employees, appointed to participate in the process of developing recommendations on the bureaus' annual budgets. The voting and ex officio members shall be evenly distributed between the utility bureaus. The term of ex officio members shall be for 1 year. Ex officio members may be re-appointed up to three times.

**3.123.050 Terms.**

- A.** Board members will be appointed to serve for a term of 3 years. The terms of each member shall run from the date of the City Council's confirmation of the member's appointment, or such other date as the Council may establish.
- B.** The Board may make recommendations to the Mayor regarding the reappointment of existing members. Notwithstanding the limitations of this Section, a Board member may continue to serve until his or her replacement is appointed.
- C.** If any member of the Board is absent more than three regularly scheduled meetings of the Board during any 12 month period, without having notified the Chair in advance of such absence, such member shall be deemed to have resigned from the

Board. The member's position shall thereafter be vacant and subject to appointment by the Mayor.

- D.** The Mayor may remove any member of the Board at his or her discretion for due cause, including but not limited to malfeasance or neglect of duties.

**3.123.060 Standing Committees.**

- A.** The Board may at any time establish standing committees of at least three individuals to address specific issues related to the Board's purpose.
- B.** The Board may designate more specific roles and responsibilities for any standing committee in the Board by-laws.

**3.123.070 Staffing.**

- A.** The City Budget Office will provide staffing for the Board, with logistical and topic-related support from the Portland Water Bureau, the Bureau of Environmental Services, and other bureaus or agencies as may be needed. Staffing should be experienced and skilled in financial analysis, utilities, and government operations within the context of environmental stewardship.
- B.** Commissioner(s)-in-Charge liaisons to the two utility bureaus shall serve as a resource to the Board and attend its meetings.

**3.123.080 Meeting Schedule.**

The Board shall meet at least once monthly on a regular date established by the Board. Additional meetings may also be scheduled during annual budget and rate review periods as determined by the Board Chair. The Board Chair, with assistance from the Board's staff, will develop meeting agendas in consultation with others including Board members, the utility bureaus, and the Commissioner(s)-in-Charge.

**3.123.090 By-Laws.**

- A.** The Board shall adopt by-laws to govern its procedures within the purposes of this Chapter that shall not conflict with any portion of this Chapter and which are subject to the prior review and approval of the Mayor, with approval as to legal sufficiency by the City Attorney. These by-laws shall include specifications concerning selection and tenure of standing committee chairs, division of responsibilities, attendance policies, meeting schedules, as well as communications between the Board and City agencies, the media and the general public, and any other appropriate matters. As an initial action, the PUB will establish operating procedures that define expectations for member participation and roles and address transparency in its deliberations, public information and participation, and equity.

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- B.** The by-laws shall specify procedures for public testimony, including opportunities for public comments at each Board meeting.

**3.123.100 Annual Report and Work Session.**

- A.** Annually, the Board shall prepare and submit to the Council a report summarizing the work performed by the Board during the previous year. The Board shall submit the annual report within the first 3 months following the beginning of each fiscal year for the utility bureaus. The annual report shall include, but need not be limited to, a summary of issues reviewed and analyzed; a list of briefings and reports received from staff, outside experts and other informed parties; a summary of recommendations forwarded to the Council; and a summary of Council action on the recommendations.
- B.** The Board's report will be presented to the Council in a work session. In addition, the Board will present a work plan outline for the next year and seek input from the Council on potential next steps.



**CHAPTER 3.124 - PORTLAND BUREAU OF  
EMERGENCY MANAGEMENT**

(Chapter replaced by Ordinance No. 184740;  
Amended by Ordinance No. 185304, effective June  
1, 2012.)

**Sections:**

- 3.124.010 Definitions.
- 3.124.020 Portland Bureau of Emergency Management.
- 3.124.030 Purpose.
- 3.124.040 Organization.
- 3.124.050 Director's Powers and Duties.
- 3.124.060 Staff and Delegation.
- 3.124.070 Neighborhood Emergency Team Program.
- 3.124.080 Neighborhood Emergency Teams.
- 3.124.090 Neighborhood Emergency Team Leaders.

**3.124.010 Definitions.**

(Amended by Ordinance Nos. 185304 and 189462, effective May 17, 2019.) The following definitions apply to Chapters 3.124 through 3.126:

- A.** “Comprehensive Emergency Management Plan (CEMP)” means a written document that describes the City’s overall emergency management plan. A CEMP specifies the purpose, organization, responsibilities and facilities of the agencies and officials of the City in the mitigation of, preparation for, response to, and recovery from emergencies and disasters.
- B.** “Director” means the director of the Portland Bureau of Emergency Management.
- C.** “Emergency” means any natural, technological or human-made, event or circumstance causing or threatening: widespread loss of life, injury to persons or property, human suffering or financial loss, including but not limited to fire, explosion, flood, severe weather, landslides or mud slides, drought, earthquake, volcanic activity, tsunamis or other oceanic phenomena, spills or releases of oil or hazardous material, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, sabotage, acts of terrorism and war.
- D.** “Emergency Coordination Center (ECC)” means the centralized location where local officials gather during an emergency to coordinate emergency response activities and implement direction from the Mayor.
- E.** “Emergency Management” means an approach to prevent, protect against, respond to, recover from, and mitigate the effects of incidents.

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- F.** “Emergency Notices” means information that is disseminated primarily in anticipation of or during an emergency. In addition to providing situational information to the public, it frequently provides directive actions required to be taken by the general public.
- G.** “Emergency Plan” means an ongoing plan for responding to a wide variety of potential hazards.
- H.** “Incident” means an occurrence, natural or human-made, that requires a response to protect life or property in an emergency.
- I.** “National Incident Management System” (NIMS) means the Federal Government’s standardized framework of doctrines, concepts, principles, terminology, and organizational processes for emergency management.
- J.** “Continuity of Operations” (COOP) Plan means a plan that describes how a bureau will continue to perform its essential functions following an event that disrupts normal operations.

**3.124.020 Portland Bureau of Emergency Management.**

(Amended by Ordinance Nos. 185304 and 189462, effective May 17, 2019.) There is established by the City Council the Portland Bureau of Emergency Management (PBEM).

**3.124.030 Purpose.**

(Amended by Ordinance No. 185304, effective June 1, 2012.) The purpose of PBEM is to centralize leadership and coordination of emergency management.

**3.124.040 Organization.**

(Amended by Ordinance Nos. 185304 and 189462, effective May 17, 2019). The Portland Bureau of Emergency Management shall consist of the Director and such other employees as the Council may provide. The Director shall be immediately responsible to the Mayor or its commissioner-in-charge if other than the Mayor, and, thereafter, to the City Council.

**3.124.050 Director's Powers and Duties.**

(Amended by Ordinance No. 185304, effective June 1, 2012.) The Director of the Portland Bureau of Emergency Management’s duties and powers include, but are not limited to the following:

- A.** Overall administrative authority for the Office;
- B.** Serve as principal strategic advisor to the Mayor concerning emergency management;
- C.** Implement policy directives of the City Council and the Disaster Policy Council and enforce the schedules and plans approved by them;

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- D.** Manage the Emergency Coordination Center (ECC), establishing the overall structure, roles, responsibilities and direction for the operation of the ECC and ensuring that the ECC is appropriately sited, staffed, equipped, and maintained. The Director may reassign employees to ECC duties as required;
- E.** Maintain written emergency plans, including all chapters, annexes and appendices of the Comprehensive Emergency Management Plan (CEMP) and annually submit a report with any recommendations for revisions;
- F.** Maintain records documenting compliance with requirements of federal and state emergency management programs, including NIMS. When a bureau other than PBEM possesses such records, the bureau shall immediately produce them upon the request of the Director;
- G.** Develop and implement training and exercise programs for responders that test the effectiveness of the CEMP and other emergency management plans;
- H.** Develop and implement processes, procedures, and systems for communicating emergency notices to the public and responders about incidents;
- I.** Develop and implement programs to educate the public about emergency preparedness, including volunteer programs, and train citizens to assist in emergencies;
- J.** Evaluate the effectiveness of the City's response to an emergency event.

**3.124.060 Staff and Delegation.**

(Amended by Ordinance Nos. 185304 and 189462, effective May 17, 2019).

- A.** The Director may appoint an Operations Manager who is accountable to the Director and may appoint other personnel necessary to carry out the provisions of this Chapter, when in keeping with the adopted budget for PBEM or specially funded projects.
- B.** The Director may delegate to staff members any of the Director's duties.
- C.** In the event of an emergency, the line of succession for the PBEM is: the succession plan described in the Bureau's COOP plan.
- D.** When a succession occurs, all duties and responsibilities of the Director are transferred to the successor and any delegations remain in place unless withdrawn by the new Director.

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**3.124.070 Neighborhood Emergency Team Program.**

The purpose of the Neighborhood Emergency Team Program is to prepare neighborhoods for self-sufficiency during an emergency by providing individuals with information, training, and exercises related to emergency preparedness and response.

**3.124.080 Neighborhood Emergency Teams.**

- A.** As part of the Neighborhood Emergency Team Program, the Director is authorized to:
  - 1.** Create Neighborhood Emergency Teams (NET) and define the qualifications for membership therein;
  - 2.** Develop written processes and procedures governing the conduct of members;
  - 3.** Conduct or cause to be conducted such inquiries or investigations into the fitness of an individual to serve as a NET member that the Director believes are necessary and appropriate;
  - 4.** Conduct or approve of ongoing training for NET members;
  - 5.** Designate certain NET members as team leaders for the purpose of supervision;
  - 6.** Dismiss or remove NET members.
- B.** When acting as agents of the City, NET members are entitled to defense and indemnification pursuant to ORS 30.285.

**3.124.090 Neighborhood Emergency Team Leaders.**

- A.** All NET members shall be immediately responsible to a team leader and thereafter the Director. The Director may dismiss or remove a NET Leader.
- B.** NET leaders may designate one assistant for each five NET members or fraction thereof for purposes of maintaining adequate supervision of NET members during training or deployment.
- C.** NET leaders are responsible for the organization, ongoing training, communication with and operational safety of the NET members assigned to their teams.
- D.** NET leaders shall attend regularly scheduled meetings for the purposes of training and communicating with NET members.

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- E.** NET leaders shall evaluate the performance of NET members and may recommend to the Director the dismissal or removal of NET members.

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**CHAPTER 3.125 - DISASTER POLICY  
COUNCIL**

(Chapter replaced by Ordinance No. 184740,  
effective July 13, 2011.)

**Sections:**

- 3.125.010 Disaster Policy Council.
- 3.125.020 Duties.
- 3.125.030 Membership.
- 3.125.040 Procedures.
- 3.125.050 Staff Support to Disaster Policy Council.

**3.125.010 Disaster Policy Council.**

The Disaster Policy Council (DPC) is hereby created for the purpose of promoting interbureau cooperation in furtherance of the City's integrated emergency management goals.

**3.125.020 Duties.**

(Amended by Ordinance Nos. 185304 and 189462, effective May 17, 2019.) The DPC's duties include, but are not limited to, the following:

- A. During an emergency, advise the Mayor on policy matters pertaining to management of the emergency;
- B. Approve strategic, response and work plans developed by the Portland Bureau of Emergency Management and the Emergency Management Steering Committee defining the City's emergency management program goals and priorities;
- C. Monitor individual bureau progress on work plan tasks, strategic plan tasks, and response plan updates. The Mayor, in consultation with the DPC, may compel bureaus to create and complete plans and updates;
- D. Convene meetings no less than twice a year whenever:
  - 1. The President of the City Council changes
  - 2. Requested by the Mayor.
- E. Keep records of meetings and decisions.

**3.125.030 Membership.**

(Amended by Ordinance Nos. 185304, 186729 and 189462, effective May 17, 2019.) The DPC shall consist of the following members:

- A. The Mayor, who shall be Chair;

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- B.** Commissioner serving as President of the City Council, who shall be Vice Chair;
- C.** If the Mayor or the President of the Council is not the Commissioner-in-Charge of the Portland Bureau of Emergency Management, the Commissioner-in-Charge of the Portland Bureau of Emergency Management or his or her designee, unless it would create a quorum of the City Council;
- D.** Chief Administrative Officer;
- E.** City Attorney;
- F.** City Auditor;
- G.** Director, Portland Bureau of Emergency Management;
- H.** Chief of Portland Fire & Rescue;
- I.** Chief of Portland Police Bureau;
- J.** Director, Bureau of Emergency Communications;
- K.** Administrator, Portland Water Bureau;
- L.** Director, Bureau of Transportation;
- M.** Director, Human Resources;
- N.** Director, Bureau of Environmental Services;
- O.** Director, Portland Parks and Recreation;
- P.** Director, Bureau of Development Services;
- Q.** Director, Joint Office of Homeless Services
- R.** Director, Bureau of Revenue and Financial Services
- S.** Director, Bureau of Technology Services
- T.** If the Mayor is unavailable to Chair the DPC, the duties shall be performed and authority exercised by the first of the City officials in the order of membership listed in Subsections A.-S. above who is able and available.

**3.125.040 Procedures.**

When the DPC is required to approve plans under subsection 3.125.020 C., the decision making process shall be by consensus. The consensus shall be determined by the Chair.

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**3.125.050 Staff Support to Disaster Policy Council.**

(Amended by Ordinance No. 185304, effective June 1, 2012.) The Portland Bureau of Emergency Management shall provide staff support to the DPC, including recording and communicating its decisions.



**CHAPTER 3.126 - EMERGENCY  
MANAGEMENT STEERING COMMITTEE**

(Chapter replaced by Ordinance No. 184740,  
effective July 13, 2011.)

**Sections:**

- 3.126.010 Emergency Management Steering Committee.
- 3.126.020 Duties.
- 3.126.030 Membership.
- 3.126.040 Staff Support to the Emergency Management Steering Committee.

**3.126.010 Emergency Management Steering Committee.**

(Amended by Ordinance No. 189462, effective May 17, 2019.) The Emergency Management Steering Committee (EMSC) is hereby created for the purpose of assisting the Portland Bureau of Emergency Management in developing emergency management policies and procedures for incidents requiring significant interbureau coordination.

**3.126.020 Duties.**

(Amended by Ordinance No. 185304, effective June 1, 2012.) The EMSC's duties include, but are not limited to, the following:

- A. Assign lead author responsibility to specific bureaus for the development of emergency plans, including annexes and appendices to the CEMP, and approve schedules for plan completion, plan exercise, review and revision;
- B. Develop strategic, response, and work plans in coordination with the Portland Bureau of Emergency Management defining the City's emergency program goals and priorities;
- C. Devise bureau-specific protocols for mobilizing resources to respond to emergencies;
- D. Assess individual Bureau compliance with emergency plans;
- E. Keep records of decisions;
- F. Convene meetings at least monthly and at other times as requested by the Director;
- G. Make periodic reports to the Disaster Policy Council so that the DPC can fulfill its duty under PCC 3.125.020.

**3.126.030 Membership.**

(Amended by Ordinance Nos. 185304, 189078 and 189462, effective May 17, 2019.) The EMSC shall consist of qualified staff from the following Bureaus:

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- A. Water Bureau;
- B. Portland Fire & Rescue;
- C. Portland Police Bureau;
- D. Bureau of Environmental Services;
- E. Portland Parks & Recreation;
- F. Bureau of Transportation;
- G. Bureau of Emergency Communications;
- H. Portland Bureau of Emergency Management;
- I. Bureau of Development Services;
- J. Bureau of Technology Services;
- K. Office of Community & Civic Life;
- L. Bureau of Human Resources;
- M. Joint Office of Homeless Services; and
- N. Bureau of Revenue and Financial Services.

**3.126.040 Staff Support to the Emergency Management Steering Committee.**  
(Amended by Ordinance No. 185304, effective June 1, 2012.) The Portland Bureau of Emergency Management shall provide staff support to the EMSC.

**CHAPTER 3.127 - BUREAU OF PORTLAND  
FIRE AND POLICE DISABILITY AND  
RETIREMENT**

(Chapter added by Ordinance No. 180690, effective  
December 20, 2006.)

**Sections:**

- 3.127.010 Bureau of Portland Fire and Police Disability and Retirement.
- 3.127.020 Purpose.
- 3.127.030 Organization.
- 3.127.040 Director's Powers and Duties.
- 3.127.050 Staff and Delegation.

**3.127.010 Bureau of Portland Fire and Police Disability and Retirement.**

In conjunction with Chapter 5 of the Charter of the City of Portland, there is established by the City Council, the Bureau of Portland Fire and Police Disability and Retirement as a part of the Mayor's portfolio and charged with the implementation of Chapter 5 of the Charter.

**3.127.020 Purpose.**

The purpose of this office is to administer Chapter 5 of the Charter of the City of Portland. This purpose may be accomplished by direction from the Board of Trustees of the Fire and Police Disability and Retirement Fund ("FPDR") and in accordance with the provisions of Chapter 5 of the Charter of the City of Portland.

**3.127.030 Organization.**

(Amended by Ordinance No. 180917, effective May 26, 2007.) The Bureau of Portland Fire and Police Disability and Retirement shall be directly responsible to its Board of Trustees and to the Mayor. Pursuant to Chapter 5 of the Charter, the FPDR Board shall have the powers listed in Section 5-202 of the Charter. Other bureaus may provide FPDR with necessary information and assistance in accordance with Chapter 5 of the Charter and include, but are not limited to, Portland Fire & Rescue, the Bureau of Police, and the Bureau of Human Resources.

**3.127.040 Administrator's Powers and Duties.**

The Administrator of the Fire and Police Disability and Retirement Fund shall:

- A. Be the Director of the Bureau of Portland Fire and Police Disability and Retirement, in accordance with Charter Chapter 5 Section 5-202;
- B. Be responsible for administering the terms of the FPDR plan;

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- C.** Serve as the principle administrator of the FPDR plan and have the power to initially approve or deny claims filed with the FPDR and to subsequently suspend, reduce or terminate benefits as provided in Charter Chapter 5;
- D.** Lead and direct the activities of the staff of the FPDR;
- E.** Oversee and direct other agents or advisers of the FPDR including actuaries and attorneys;
- F.** Be responsible for integrating disability, retirement, and return-to-work programs with other bureaus within the City where applicable; and
- G.** Review and propose amendments as necessary to the FPDR to conform to changes in federal or state law and, as appropriate, provide Council with the documentation necessary for its review and approval of the same.

**3.127.050 Staff and Delegation.**

The Administrator may delegate to his or her staff members any of the Administrator's duties when the Administrator is not available or able to perform those duties.

**CHAPTER 3.128 - OFFICE OF EQUITY AND  
HUMAN RIGHTS**

(Chapter replaced by Ordinance No. 184880,  
effective September 21, 2011.)

**Sections:**

- 3.128.010 Creation and Organization.
- 3.128.020 Purpose.
- 3.128.030 Director's Powers and Duties.
- 3.128.040 Administrative Rulemaking Procedures.

**3.128.010 Creation and Organization.**

There is established the Office of Equity and Human Rights. The Office of Equity and Human Rights shall consist of the Director and such other employees as the Council may provide. The Director shall report to the Commissioner in Charge.

**3.128.020 Purpose.**

The purpose of the Office of Equity and Human Rights is to:

- A. Promote equity and reduce disparities within City government;
- B. Provide guidance, education and technical assistance to all bureaus as they develop sustainable methods to build capacity in achieving equitable outcomes and service;
- C. Work with community partners to promote equity and inclusion within Portland and throughout the region, producing measurable improvements and disparity reductions;
- D. Support human rights and opportunities for everyone to achieve their full potential; and
- E. Work to resolve issues rooted in bias and discrimination, through research, education, and interventions.

**3.128.030 Director's Powers and Duties.**

(Amended by Ordinance No. 186898, effective November 19, 2014.) The duties of the Director of the Office of Equity and Human Rights include, but are not limited to:

- A. Overall administration of the Office and supervision of its staff;
- B. Implementing the policy directives of the City Council and the Commissioner in Charge, and proposing policies and practices to achieve the purpose of the Office, and adopt administrative rules, procedures and forms to assist in implementing City policies;

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- C. Developing an annual work plan to organize and prioritize the work of the Office;
- D. Working with the Human Rights Commission, the Portland Commission on Disability and all other City bureaus, offices, boards and commissions, as well as regional partners in government, business and the community, to increase equitable outcomes and reduce disparities;
- E. Recommending implementation strategies, accountability mechanisms, evaluation standards, and specific actions to the City Council that will achieve the goals of the Portland Plan Equity initiative, and other equity and human rights policies adopted by City Council;
- F. Providing reports to Council and the community annually and as requested.

**3.128.040 Administrative Rulemaking Procedures.**

(Added by Ordinance No. 186898, effective November 19, 2014.)

- A. Purpose. The Director has been delegated the authority to adopt and administer administrative rules appropriate to perform the duties set forth in Section 3.128.030. Administrative rules shall be adopted according to the procedures in this Section.
- B. Adopting Rules.
  - 1. Prior to the adoption or amendment of a permanent rule, the Director shall:
    - a. Give notice of the proposed rule at least 15 days prior to the effective date of the rule to City Commissioners, Bureau Directors and other parties of interest. The notice shall include a brief description of the subjects covered by the proposed rule, the final date for acceptance of written comments, the location to submit comments, and the location where copies of the full set of the proposed rules may be obtained.
    - b. During the comment and review process, the Director will analyze written comments, engage stakeholders and solicit legal review. The Director may either adopt the proposed rule, modify it or reject it.
    - c. If the Director makes a substantial modification to the proposed rule, the Director may provide additional time for review and comment prior to adoption.
    - d. Unless otherwise stated, all rules will be effective upon adoption by the Director. Permanent rules shall be filed in the Portland Policy Documents repository.

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- e. Upon consultation with the Commissioner in Charge, the Director may adopt an interim rule without prior notice upon a finding that a failure to act promptly will result in prejudice to the City's interest. Interim rules will be effective for a period of no longer than 180 days. No later than 15 days after adoption, notice of the interim rule shall be given to City Commissioners, Bureau Directors and other parties of interest as identified by the Director.
2. All administrative rules shall be posted on the Bureau's website.
  3. The Director may repeal any adopted rules upon consultation with the Commissioner in Charge. Notice of repeal will be given to City Commissioners, Bureau Directors and other parties of interest.

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**CHAPTER 3.129 - HUMAN RIGHTS  
COMMISSION**

(Chapter added by Ordinance No. 181670; effective  
March 19, 2008.)

**Sections:**

- 3.129.010 Staffing and Membership.
- 3.129.020 Mission.
- 3.129.030 Jurisdiction.

**3.129.010 Staffing and Membership.**

(Amended by Ordinance No. 184880, effective September 21, 2011.) There is established in the City of Portland a Human Rights Commission. The Commission shall be staffed by the Office of Equity and Human Rights. The Commission shall consist of 11 to 15 members. All members shall serve without compensation. Appointments are for staggered terms of three years. No member may serve more than two consecutive three year terms. When a vacancy occurs, a Human Rights Commission workgroup – after consultation with the Commissioner in Charge of the Office of Equity and Human Rights – nominates, the Mayor appoints, and the Council confirms, a member to fill the vacancy. This same process shall be used when an interim vacancy occurs to appoint a member to fill the balance of the unexpired term. Members shall be appointed by the Mayor so as to provide representation from a reasonably broad spectrum of the community, including without limitation the following factors: areas of expertise, advocacy experience, community involvement, profession, education, race, ethnicity, gender, gender identity, sexual orientation, national origin, age, religion and geographic identification. Members must live, work, worship or be enrolled in school within the City of Portland. Members are encouraged to establish constructive relationships with each member of Council, the City Auditor and other elected officials. The Mayor may remove a member from the Commission at any time, with the recommendation of the Commission and subject to approval by the Council.

**3.129.020 Mission.**

(Amended by Ordinance No. 184880, effective September 21, 2011.) The Human Rights Commission shall work to eliminate discrimination and bigotry, to strengthen intergroup relationships and to foster greater understanding, inclusion and justice for those who live, work, study, worship, travel and play in the City of Portland. In doing so, the Human Rights Commission shall be guided by the principles embodied in the United Nations Universal Declaration of Human Rights and by the Portland Plan Equity initiative. The Human Rights Commission shall report at least annually to the Council on the activities of the Human Rights Commission (to include any subcommittees or task forces as may be established) on the progress of the Commission and any recommendations to the Council for further action.



**3.129.030 Jurisdiction.**

The jurisdiction of the Commission will include all practices and incidents occurring in the City of Portland which affect people who live, work, study, worship, travel or play in the City. The Commission shall have jurisdiction to address such practices and incidents through education, research, advocacy and/or intervention, but shall not have civil rights enforcement authority.

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**CHAPTER 3.130 - ADMINISTRATIVE  
APPEALS**

(Chapter added by Ordinance No. 187151; effective  
September 1, 2015.)

**Sections:**

- 3.130.010 Definitions.  
3.130.020 Timely and Adequate Notification of Right to Appeal Required.

**3.130.010 Definitions.**

(Amended by Ordinance No. 189614, effective August 23, 2019.) For the purpose of this Chapter:

- A.** “Administrative Act” means a final action, decision, determination, or order of Council, a bureau, department, or office. Administrative acts do not include legislative acts of Council, any City employment action, decision, determination, or order, or any action, decision, determination, or order that is subject to the review procedures set forth in Title 33 of the Code.
- B.** “Administrative Appeal” means appeals of administrative acts by appellants when the right to appeal is provided by Code or rule, and the Code or rule requires the appeal to be decided by a bureau, department, office, board, hearings officer, or Council acting in its quasi-judicial capacity.
- C.** “Appellant” includes any person given the right to appeal an administrative act by Code or a rule. As used in this Chapter, “appellant” does not include prospective, current, or former City employees contesting any administrative act related to their employment, employment benefits, application for employment, termination of employment, or internal complaint arising out of or connected with their employment.
- D.** “Rule” means an administrative rule or bureau policy, as each term is defined in Section 1.07.020.
- E.** "Timely" means that written notice is provided to the appellant in accordance with the time period specified in the Code or rule providing for the right of appeal. If the applicable Code or rule does not specify a time period, “timely” means that written notice is provided as soon as practicable after the right to request an administrative appeal is triggered but no later than:
- 1.** Three business days after the right to an administrative appeal is triggered, if the period during which the appellant may request an administrative appeal is less than 15 days; or

2. Ten business days after the right to an administrative appeal is triggered, if the period during which the appellant may request an administrative appeal is 15 days or more.

**3.130.020 Timely and Adequate Notification of Right to Appeal Required.**

- A. Timely and Adequate Notification Required. When there is a right to appeal an administrative act through an administrative appeal, the bureau, department or office must provide timely notice to appellant in accordance with Subsection 3.130.020 B.
- B. Form and Content of the Notice. An adequate notice must:
  1. Be in writing;
  2. Provide a short, plain statement describing the underlying administrative act and the basis for the administrative act, including citation to the applicable Code provision or rule;
  3. Explain any right to request an administrative appeal, including:
    - a. citation of the applicable Code provision or rule providing the right to appeal;
    - b. the time limit for requesting an administrative appeal, specifying calendar or business days;
    - c. the method for requesting an administrative appeal, including a City address and phone number;
    - d. the cost, if any, for requesting an administrative appeal, including accepted payment methods and whether there is a low-income fee waiver; and
    - e. disclosure of whether effect of administrative act will be stayed pending resolution of the requested administrative appeal.
- C. A bureau, department or office may adopt a rule specifying when and how notice of the right to request an administrative appeal will be provided so long as it is consistent with Subsections A and B of this Section 3.130.020.

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**CHAPTER 3.131 - NEW PORTLANDERS  
POLICY COMMISSION**

(Chapter added by Ordinance No. 187805; effective  
July 8, 2016.)

**Sections:**

- 3.131.010 Mission.
- 3.131.020 Membership and Staffing.
- 3.131.030 Purpose.
- 3.131.040 Organization and Meetings.

**3.131.010 Mission.**

There is established in the City of Portland a New Portlanders Policy Commission. The New Portlanders Policy Commission shall advise the City on policies and practices to integrate immigrant and refugee communities' voices and needs into the provision of City services, City decision-making and civic engagement in Portland, and to seek constructive relationships with each member of Council and the City Auditor.

**3.131.020 Membership and Staffing.**

The Commission shall consist of 25 voting members. All members shall serve without compensation from the City. Appointments to serve on the Commission are for staggered terms of three years. No member may serve more than two 3-year terms. The Commissioner(s)-in-Charge of the New Portlanders Policy Commission recommends, the Mayor nominates, and the Council approves members to the Commission. Members shall be appointed to provide representation from a reasonably broad spectrum of immigrant and refugee communities, striving to include a range of areas of expertise, advocacy experience, community involvement, profession, education, race, ethnicity, gender, gender identity, sexual orientation, national origin, age, religion and geographic identification. Members must live, work, worship or be enrolled in school within the city of Portland and/or volunteer for a nonprofit within the city of Portland. If any member of the Commission is absent more than three regularly scheduled meetings of the Commission during any 12 month period, without having notified the Co-Chairs in advance of such absence, such member shall be deemed to have resigned from the Commission. The member's position shall thereafter be vacant. The Mayor may remove a member from the Commission at any time, with the recommendation of the Commissioner-in-Charge. City Elected Officials may appoint City bureau staff to the Commission as non-voting members. Staffing for the Commission shall be provided, subject to the annual City Budget process.

**3.131.030 Purpose.**

The purpose of the New Portlanders Policy Commission is to:

- A. Review, develop, evaluate and refine policy and practice recommendations for improving immigrant and refugee community integration in all City activities.

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- B.** Facilitate constructive working partnerships between City leaders and newcomer community leadership.
- C.** Provide a forum for setting integration goals between City bureaus and community organizations.
- D.** Provide technical support and policy advice to City Council offices and City bureaus.
- E.** Serve as a consultant and advocate to local, state and federal agencies on policies impacting immigrant and refugee communities, as capacity allows.
- F.** Provide a report to City Council on policy and practice outcomes on an annual basis.
- G.** Engage in the City's annual budget process.

**3.131.040 Organization and Meetings.**

The Commission shall adopt bylaws and rules of procedure, and specify procedures for public testimony. The Commission shall elect each year a Chair or Co-Chairs and such other officers as the Commission may from time to time establish. The Commission shall meet at least quarterly, and may meet more often. The Commission Chair(s), in consultation with the Commissioner-in-Charge and the Director of the Bureau staffing the New Portlanders program, or their designee, shall set the agenda for Commission meetings.

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**CHAPTER 3.132 - COMMUNITY  
INVOLVEMENT COMMITTEE FOR  
LEGISLATIVE PROJECTS UNDER THE  
COMPREHENSIVE PLAN.**

(Chapter added by Ordinance No. 188177, effective  
January 1, 2018.)

**Sections:**

- 3.132.010 Purpose.  
3.132.020 Membership, Meetings, and Organization.

**3.132.010 Purpose.**

The Community Involvement Committee (CIC), an independent advisory body, is charged with reviewing, commenting and advising City staff on the community involvement elements of legislative projects that implement Portland's Comprehensive Plan. The Committee will:

- A. Recommend changes to and assessments of ongoing and project-specific community involvement practices to bring them closer into alignment with the Comprehensive Plan Community Involvement goals and policies.
- B. Approve and update the Community Engagement Manual over time to reflect emerging best practices.

**3.132.020 Membership, Meetings, and Organization.**

The Community Involvement Committee members shall be appointed by the Commissioner-in-Charge of the Bureau of Planning and Sustainability and confirmed by the City Council. The Committee will consist of at least 5 and no more than 12 members. The appointed membership shall be broadly representative of geographic areas and interests and from a reasonably broad spectrum of lived experience, particularly in under-served and under-represented communities. Members must live, work, worship or be enrolled in school within the City of Portland and/or volunteer for a nonprofit within the City of Portland.

- A. **Appointments and Terms.** The Commissioner-in-Charge of the Bureau of Planning and Sustainability shall appoint members of the Community Involvement Committee. Appointment to the Community Involvement Committee shall be for a three-year term, renewable for a second term. If a position is vacated during a term, the Commissioner-in-Charge of the Bureau shall appoint a member to serve for the unexpired term. Members appointed to the Community Involvement Committee serve at the pleasure of the Commissioner-in-Charge of the Bureau of Planning and Sustainability. Members of the Committee may be dismissed at the discretion of the Commissioner-in-Charge.

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- B.** Meetings, Officers, and Subcommittees.
- 1.** The Community Involvement Committee shall meet at least five times yearly and as otherwise necessary to conduct its business. Meetings shall be conducted in accordance with bylaws adopted by the Director of the Bureau of Planning and Sustainability.
  - 2.** The Community Involvement Committee may divide its members into subcommittees which are authorized to act on behalf of the committee for an assigned purpose, such as gathering information.
- C.** Attendance. Members of the Community Involvement Committee are expected to attend each meeting of the committee. The Commissioner-in-Charge may replace any member who accrues unexcused absences from two or more consecutive meetings or more than 50 percent of the meetings in any year.
- D.** Compensation. Community Involvement Committee members shall serve without compensation.

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**CHAPTER 3.133 - RENTAL SERVICES  
COMMISSION (RSC)**

(Chapter added by Ordinance No. 188633, effective  
October 4, 2017.)

**Sections:**

- 3.133.010 Rental Services Commission Established.
- 3.133.020 Mission.
- 3.133.030 Duties.
- 3.133.040 Membership.
- 3.133.050 Meetings.
- 3.133.060 Quorum.
- 3.133.070 Chairperson.
- 3.133.080 Committees.
- 3.133.090 Staffing.
- 3.133.100 Cooperation.

**3.133.010 Rental Services Commission Established.**

There is established in the City of Portland, the Rental Services Commission (RSC). The RSC is designated as the primary public forum for discussion of landlord-tenant housing regulation and programs in the City of Portland.

**3.133.020 Mission.**

The mission of the RSC is to advise the Director of the Portland Housing Bureau (PHB), the Housing Commissioner, and the Portland City Council on issues related to landlord-tenant housing regulation and programs, and to provide a forum for public input on the rental housing market.

**3.133.030 Duties.**

The RSC is delegated to carry out the following functions:

**A. Landlord-Tenant Policy Initiatives**

1. Advise PHB on landlord-tenant policy issues and initiatives
2. Provide feedback and recommendations on landlord-tenant policy initiatives and policy changes

**B. Landlord-Tenant Regulation and Programs**

1. Advise PHB on landlord-tenant regulation and programs
2. Monitor PHB landlord-tenant regulation and programs



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3. Advise PHB on the effectiveness of landlord-tenant regulation and programs.
  4. Recommend improvements to PHB's landlord-tenant regulation and programs
  5. Recommend annual performance goals for PHB's landlord-tenant regulation and programs
- C. Budget
1. Advise the Portland Housing Advisory Commission (PHAC), the Housing Commissioner, and City Council on the budget for PHB's landlord-tenant regulation and programs
  2. Provide feedback on landlord-tenant funding priorities
- D. Community Involvement
1. Provide an inclusive forum for the community's discussion of its landlord-tenant housing needs and priorities
  2. Assist PHB in strengthening community partnerships

**3.133.040 Membership.**

- A. The RSC shall consist of at least 7 members and no more than 13 members.
- B. The Housing Commissioner shall appoint all members.
- C. The Housing Commissioner may designate a staff representative to serve as a non-voting ex officio member.
- D. Membership appointment shall take into account the socio-economic, gender, racial, ethnic, cultural, and geographic diversity of the City of Portland.
- E. Membership appointment shall achieve a balanced citizen-based perspective encompassing knowledge of fair housing, rent-regulated and market-rate rental housing, landlord-tenant law, property management, renter-owner advocacy, rental housing access, and rental housing health & safety.
- F. Members shall not simultaneously serve on the PHAC and the RSC.
- G. For the initial appointments to the RSC, the following terms will apply: five to seven members shall be appointed for a term of 2 years; and six to eight members for a term of 3 years.

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- H.** All subsequent appointments to the RSC shall be for terms of 2 years.
- I.** Members shall be eligible to renew their appointment at the discretion of the Housing Commissioner.
- J.** The Housing Commissioner may rescind the appointment of a member if the duties and responsibilities of appointment are not being fulfilled.
- K.** Members shall serve without compensation.
- L.** PHB may approve the reimbursement of reasonable expenses of the appointed members that are incurred while a member is fulfilling authorized duties of the RSC.
- M.** The RSC shall adopt necessary bylaws and rules of procedure for the governance of its proceedings.

**3.133.050 Meetings.**

The RSC will hold regularly scheduled meetings at least every 2 months, at a schedule established by the RSC.

**3.133.060 Quorum.**

Quorum shall be defined as one-half plus one of all appointed members. A quorum shall be necessary for the RSC to take any action. Actions of the RSC shall be passed upon a majority vote of the members present.

**3.133.070 Chairperson.**

A chairperson shall be selected from the appointed members by the Housing Commissioner.

**3.133.080 Committees.**

- A.** The RSC will have the following standing committees, whose membership shall be determined by the Chairperson and the Housing Commissioner:
  - 1.** Executive Committee
  - 2.** Bylaws and Rules Committee
- B.** The RSC may create non-standing committees and task forces to address issues within the parameters of the RSC's duties and responsibilities.

**3.133.090 Staffing.**

PHB staff shall be provided for the ongoing functions of the RSC. PHB shall provide notice of RSC meetings to liaison staff representing the other key implementing and policy agencies in the local rental housing delivery system.

**3.133.100 Cooperation.**

All city boards, bureaus, and agencies of any kind shall cooperate with the RSC and shall provide information at the RSC's request.

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**CHAPTER 3.134 - OFFICE OF THE  
PORTLAND CHILDREN'S LEVY**

(Chapter added by Ordinance No. 189192, effective  
November 9, 2018.)

**Sections:**

- 3.134.010 Creation, Organization, and Purpose.
- 3.134.020 Director's Powers and Duties.
- 3.134.030 Duration and Dissolution.

**3.134.010 Creation, Organization, and Purpose.**

There is established the Office of the Portland Children's Levy. The Office of the Portland Children's Levy shall consist of the Director and such other employees as the Council may provide. The Director shall report to the Commissioner in Charge. The purpose of the Office of the Portland Children's Levy is to administer the Children's Investment Fund in accordance with the current measure enacted by voters of the City of Portland, Oregon.

**3.134.020 Director's Powers and Duties.**

The duties of the Director of the Office of the Portland Children's Levy include, but are not limited to:

- A. Overall administration of the Office and supervision of its staff;
- B. Implementing the policy directives of the City Council, the Commissioner in Charge, and the tax levy approved by voters to fund the Children's Investment Fund;
- C. Proposing policies and practices to achieve the purpose of the Office, and adopt procedures and forms to assist in implementing City policies.

**3.134.030 Duration and Dissolution.**

The Office of the Portland Children's Levy shall remain in existence so long as the voters renew the Children's Investment Fund and associated tax levy. In the event the tax levy is not renewed by voters, the Office may exist thereafter only for such reasonable time as is necessary for the orderly closing of affairs of the Children's Investment Fund.

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Eligible Rollover Distribution (as defined in IRC Section 402(c)(4)) paid directly to an Eligible Retirement Plan (as defined in Subsection 5.09.155 B.) specified by the Participant. The Participant shall, in the time and manner prescribed by the Employer, specify the amount to be rolled over and the Eligible Retirement Plan to receive such rollover. Any portion of a distribution which is not rolled over shall be distributed to the Participant.

- B.** The election described in Subsection A. also applies to the surviving spouse who is the designated Beneficiary of the Participant or a spouse or former spouse who is the Alternate Payee, provided that such spouse, former spouse or Alternate Payee directs the transfer of an Eligible Rollover Distribution (as defined in Subsection 5.09.155 B.) in which such spouse, former spouse or Alternate Payee is a participant. Effective for distributions made on or after May 16, 2008, a non-spouse beneficiary is permitted to make a direct rollover of death benefits to an inherited IRA.

**5.09.157 Purchase of Service Credits.**

(Added by Ordinance No. 179417; amended by Ordinance No. 182168, effective October 3, 2008.) Prior to Severance from Employment, a Participant may elect to allow the Plan to transfer assets from the Participant's account with the Plan to a designated government defined benefit plan for the purchase of permissible service credits pursuant to IRC Section 457(e) (17), provided, however, that the designated defined benefit plan will accept such a transfer of assets.

**5.09.160 Unclaimed Assets.**

In the event the Plan has assets of Participants or their Beneficiaries who, after the Participants' Severance from Employment, cannot be located so as to properly distribute assets to the Participant or Beneficiary under the terms of the Plan, the Plan Administrator shall make all reasonable efforts to locate said Participants and Beneficiaries. If after such efforts, the Participant or Beneficiary cannot be located, the Plan Administrator shall designate such assets as unclaimed property, and thereby abandoned, and shall transfer said assets to the State of Oregon according to the Uniform Disposition of Unclaimed Property pursuant to ORS 98.302, et seq., as amended, if such assets remain unclaimed for two years after said designation.

**5.09.170 Disclaimers.**

- A.** Neither the City nor the Committee shall be liable for the investment decisions made by Participants.
- B.** Neither the City nor the Committee manages the Participants' Accounts, and is therefore not responsible or liable for the performance and accuracy of Participant's Accounts.

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**CHAPTER 5.10 - CITY CHARITABLE  
CAMPAIGN**

(Chapter replaced by Ordinance No. 190464,  
effective June 23, 2021.)

**Sections:**

- 5.10.010 Definitions.
- 5.10.020 Charitable Campaign.
- 5.10.030 Administration of Charitable Campaign.
- 5.10.040 Featured Nonprofits.

**5.10.010 Definitions.**

- A. ‘Charitable Organization’ means: An entity organized and operated exclusively for tax-exempt purposes under Section 501(c)(3) of the Internal Revenue Code and registered as a charitable organization with the Oregon Attorney General as required by ORS 128.610 to 128.995; or, an entity that is a State or City created nonprofit that receives donations which may be deducted from taxable income as "charitable contributions" under Section 170(a) and (c) of the Internal Revenue Code;
- B. ‘Workplace Giving’ means: An annual, employer-sponsored program such as the City’s charitable campaign that offers employees the opportunity to make a charitable contribution through payroll deduction and other payment methods.
- C. ‘Workplace Giving Partner Organization’ means: A nonprofit charitable organization that specializes in supporting employers in their workplace giving campaigns by providing technology platforms for donating, promotional and back-end donation processing support and customer and employee support. Examples of such organizations include United Way, EarthShare and America’s Charities.

**5.10.020 Charitable Campaign.**

The City of Portland shall conduct an annual Charitable Campaign to encourage and support voluntary charitable contributions by employees. The campaign provides a consolidated, annual opportunity for workplace giving through payroll deductions, benefiting a wide range of charitable organizations. The campaign minimizes workplace disruption and reduces the administrative costs to the City and charitable organizations in charitable solicitation efforts.

Allowing employees to direct charitable donations to organizations of their choice through the Charitable Campaign does not constitute a City endorsement of those organizations.

**5.10.030 Administration of Charitable Campaign.**

The Office of the Chief Administrative Officer (CAO) of the Office of Management and Finance has administrative responsibility for the Charitable Campaign. City administrative

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costs associated with each annual Charitable Campaign will be paid out of the Chief Administrative Officer's General Fund Allocation.

The CAO or CAO's designee is authorized to formulate, approve and issue policies, administrative rules, and supplemental regulations related to the management and administration of the Charitable Campaign.

City employees are able to make donations via voluntary payroll deductions. Neither the City nor the employee is liable for the donations if the employment status of the employee changes or the employee wishes to discontinue the donation.

In accordance with City Procurement rules, the CAO will select a designated workplace giving partner organization that is responsible for allocating funds to the applicable charitable organizations identified in employee donations and providing written acknowledgement for donors to meet the requirements of the Internal Revenue Code.

Following each year's Charitable Campaign, the CAO or CAO's designee will provide a report to City Council summarizing employee participation, community impact and administrative costs.

**5.10.040      Featured Nonprofits.**

Annually, each City Council member will select two charitable organizations that comply with the City's nondiscrimination policy to be featured in the campaign. These featured organizations will be highlighted and promoted during the campaign. A maximum of 10 organizations will be featured during each campaign.

Employees will not be limited to the featured nonprofits. They can direct their donations to any valid charitable organization that is recognized by the City's workplace giving partner organization.

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**CHAPTER 5.12 - ASSIGNMENT OR  
GARNISHMENT OF SALARIES, WAGES OR  
CLAIMS**

**Sections:**

- 5.12.010 Unlawful to Assign Salary or Wages.
- 5.12.020 Bureau of Human Resources Not to Recognize Assignment.
- 5.12.030 Exceptions.
- 5.12.040 Penalty.
- 5.12.050 Garnishments.

**5.12.010 Unlawful to Assign Salary or Wages.**

It is unlawful for any person or employee rendering services to the City and having a salary or wage claim against the City to make an assignment of the claim for salary or wages, whether earned or unearned, except as provided in Section 5.12.030.

**5.12.020 Bureau of Human Resources Not to Recognize Assignment.**

(Amended by Ordinance No. 189452, effective May 10, 2019.) The Bureau of Human Resources of the City is hereby directed not to recognize any assignment or attempted assignment of a salary or wage claim against the City, except as provided in Section 5.12.030.

**5.12.030 Exceptions.**

(Amended by Ordinance No. 189452, effective May 10, 2019.) The provisions of this Chapter are subject to the following exceptions:

- A. Any officer or employee may, with the approval of the Commissioner In Charge, or the Auditor as to employees of the Auditor's Office, assign their salary or wages to the Retail Credit Association of Portland, Oregon;
- B. Nothing contained herein shall prohibit a City employee from executing a power of Attorney to Portland Employees' Credit Union, an Oregon corporation, whereby the salary or wages, or any part thereof, of the employee is assigned to the corporation. The Bureau of Human Resources and the City Treasurer are hereby authorized to recognize all of the powers of Attorney to make on the payrolls any deductions required thereby, and to pay the Portland Employees' Credit Union any sums authorized by the powers of Attorney.
- C. Nothing contained herein shall prohibit a City employee from executing a power of Attorney to the Firemen's Relief Association of the Firemen's Beneficiary Association of Portland, an Oregon corporation, or to the Portland Police Beneficiary Association, an Oregon corporation, whereby the salary or wages, or any part thereof, of the employee is assigned to either of said corporations. The Bureau of Human Resources and the City Treasurer are hereby authorized to recognize all of the powers of Attorney.

**5.12.040 Penalty.**

Any officer or employee of the City who shall sell or assign, or attempt to sell or assign, any salary or wages in violation of the provisions of this Chapter shall thereby be deemed to have committed an act which is hereby declared sufficient cause for his removal.

**5.12.050 Garnishments.**

(Amended by Ordinance Nos. 146745, 154642, 155429 and 173369, effective May 12, 1999.) Whenever any salary, wage or credit in possession of the City, belonging or owed to any person, firm or corporation whatsoever is garnished or levied upon, subject to the City Attorney's approval of the original garnishment or levying documents, the Office of Fiscal Administration, Accounting Division, shall thereafter process such garnishments as follows:

- A.** With respect to the garnishment of City employees' salaries of wages, the amount of garnishment shall be deducted from the employees' salary or wages as a voluntary deduction through the computer process. The total amount of garnishment deducted for all employees whose wages are being garnished shall be transmitted to the Treasurer's Office account by an authorization notice accompanied by a Garnishment Report in the form of a deduction register. The Garnishment Report will document the name(s) of the payee(s) according to the Notice of Levies or Writs of Garnishment received. The Treasury Division will then draw one or more checks, depending on the number of levies or writs received for each employee, against such office account in favor of the payee designated on the Notice of Levy/Writ of Garnishment.
- B.** With respect to Notices of Levy or Writs of Garnishment not affecting the salary or wages of a City employee and any Notice of Levy or Writs of Garnishment received after the biweekly payroll cutoff, the procedure for processing such Notices of Levy/Writs of Garnishment shall be as stated in this Subsection. The Office of Fiscal Administration, Accounting Division, shall place upon any check issued for such salary, wages or credit and an endorsement:

  - 1.** Noting that such salary, wages or credit has been garnished or levied upon as the case may be, together with identification of such garnishment or levy;
  - 2.** Directing the payment of a certain sum upon such garnishment or levy;
  - 3.** Designating the person entitled to receive such sum; and
  - 4.** Directing the payment of the balance of money due on such warrant, if any, to the payee thereof.

The Office of Fiscal Administration, Accounting Division, shall then deliver such warrant to the Treasurer and the Treasurer shall deposit such warrant to the account of the City and draw one or more checks against such account in the amounts

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directed and in favor of the person or persons designated by the endorsement upon such warrant.

**CHAPTER 5.16 - EMERGENCY CHECKS**

**Sections:**

- 5.16.010 Issued When.
- 5.16.020 Extraordinary Circumstances Requiring Emergency Checks.

**5.16.010 Issued When.**

(Amended by Ordinance Nos. 168313, 169321 and 173369, effective May 12, 1999.)  
Emergency checks are hereby authorized to be issued under special circumstances. Such emergency checks shall be for the following specified purposes:

- A. In payment of salaries or wages of employees when discharged or laid off;
- B. In payment of earned salaries or wages of employees compelled to leave the City by reason of death of a relative or other extraordinary circumstances;
- C. In payment of loans or for the purchase of bonds by the City Treasurer where interest charges can be stopped or saved to the City, or for the purchase of postage;
- D. In payment of commissions or assessments on property sold for the benefit of the Assessment Collection Fund;
- E. In payment of any obligation where interest penalty charges or discounts on current expenses can be saved to the City.

Emergency checks may be authorized by the Bureau Manager or designee for any of the aforementioned purposes and no other authorization is needed.

**5.16.020 Extraordinary Circumstances Requiring Emergency Checks.**

(Amended by Ordinance Nos. 136544, 169321, 173369 and 189452, effective May 10, 2019.) Should an extraordinary condition arise not otherwise provided for by this Chapter, the Commissioner-In-Charge of the department requesting the issuance of an emergency check, or any person in such department so authorized by the Commissioner-In-Charge in writing filed with the Accounting Division, shall present a signed requisition, accompanied by a statement in writing giving the reasons for so doing, which shall be authorization for issuance of an emergency check. The Commissioner-In-Charge, the Mayor and the Accounting Division shall approve emergency checks for extraordinary circumstances provided for in this Section.

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**CHAPTER 5.20 - BUDGET PROCEDURE**

**Sections:**

- 5.20.010 Budget Procedure.  
5.20.020 Reimbursable Expenditures Account.

**5.20.010 Budget Procedure.**

(Amended by Ordinance Nos. 168428 and 181483, January 18, 2008.)

- A. The Commissioner of Finance and Administration is hereby designated to supervise the preparation of the budget document.
- B. The preliminary budget estimates of expenditures for the departments and bureaus for the ensuing year shall be prepared and submitted by the department heads as directed by the Commissioner of Finance and Administration.
- C. The Commissioner of Finance and Administration is hereby designated the Chair of the budget Committee.

**5.20.020 Reimbursable Expenditures Account.**

- A. Reimbursable expenditures account budgeted in the General Fund is limited to reimbursable projects which were not anticipated when the budget was prepared. An estimate of revenue in an equal amount is also budgeted in the Reimbursable Revenues Account. Expenditures for such a reimbursable project shall be charged to the function which will execute the project, and the appropriation for reimbursable expenditures will be provided by transfer from the Reimbursable Expenditure Account. Receipts for reimbursements shall be credited to an appropriate revenue account other than the Reimbursement Revenues Account. A memorandum credit only will be made in the Reimbursement Revenues Account.
- B. A transfer of appropriation shall not be made from the Reimbursable Expenditure Account if the proposed expenditure is already included in the budget of an appropriation other than reimbursable expenditures, either directly or indirectly, or if the reimbursement is already included in estimated revenues other than reimbursement revenues, either directly or indirectly. This appropriation shall not be used to increase the budget of a bureau or function when some item of estimated revenue is over-realized.
  - 1. A transfer of appropriation shall not be made until it has been determined by the Commissioner In Charge of the bureau affected or by the Commissioner of Finance and Administration for other budgets that a deposit has been made to cover the estimated cost of the project or that payment is assured.



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- C.** Transfers of appropriation for reimbursable projects may be made without special ordinance upon written authorization by the Commissioner of Finance and Administration and the Commissioner In Charge of the bureau affected. If no bureau is affected, then such transfer may be made upon written authorization of the commissioner of Finance and Administration.
- D.** If a reimbursable project is completed during the same year in which the transfer was made to set up the project and if there is a remaining balance of the appropriation transferred, the unused appropriation may be transferred back to the Reimbursable Expenditures Account without special ordinance on written authorization of the Commissioner of Finance and Administration.

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**CHAPTER 5.24 – REVENUE DIVISION’S  
RECORDS AND REPORTS**

(Chapter amended by Ordinance No. 189413,  
effective March 6, 2019.)

**Sections:**

5.24.010 Permanent Records to be Kept by Revenue Division.

5.24.020 Revenue Division to Report on Balance in Appropriation.

**5.24.010 Permanent Records to be Kept by Revenue Division.**

(Amended by Ordinance No. 189413, effective March 6, 2019.) The Revenue Division 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 Revenue Division to Report on Balance in Appropriation.**

(Amended by Ordinance No. 189413, effective March 6, 2019.) Each month the Revenue Division shall transmit to the head of each department a statement showing the unencumbered balance in each appropriation.

**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.
- 5.30.050 Collection Process.
- 5.30.060 Adjustment of Open Lien Amounts.
- 5.30.070 Catch-up Payment Program.
- 5.30.080 Hardship Payment Program
- 5.30.090 Negotiation of Bonded Lien Payment Contracts.
- 5.30.100 Preparation of Foreclosure List.
- 5.30.110 Council Action on Foreclosure List.
- 5.30.120 Purchase of Property by the City.
- 5.30.130 Recording Notice of Foreclosure Sale.
- 5.30.140 Notice to Persons on Foreclosure List of Foreclosure Action.
- 5.30.150 Payment of Lien.
- 5.30.160 Presale and Sale Conditions.
- 5.30.170 Conduct of Foreclosure Sale.
- 5.30.180 Waste, Improvements to the Property, and Nuisance Abatement Procedures.
- 5.30.190 Certificate of Sale and Notice of Sale to Property Owner.
- 5.30.200 Entry of Collections and Sales.
- 5.30.210 Redemption.
- 5.30.220 Issuance of Deed.
- 5.30.230 Payment of Taxes.
- 5.30.240 Sale of Property Purchased by City.

**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.

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**5.30.020 Definitions.**

(Amended by Ordinance Nos. 187833 and 189413, effective March 6, 2019.) The terms used in this Chapter shall be defined as provided in this Section, unless the content requires otherwise.

- 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 Revenue Division 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 Officer 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.

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- 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 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, 187833 and 189413, effective March 6, 2019.)

- A.** The Revenue Division 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 Revenue Division 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 City Treasurer shall administer the foreclosure sale process; withhold or withdraw property from foreclosure sale for purchase by the City; administer the

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redemption process; and execute deeds conveying the property sold. As provided under Section 3.08.030, the City Treasurer may delegate this authority or such other authority as may be assigned under this Chapter.

- C. Unless otherwise specifically directed by Council, the Division of Asset Management shall manage, maintain, rent or market for sale properties purchased by the City under this Chapter.

**5.30.050 Collection Process.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. The Revenue Division 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 Revenue Division 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 Revenue Division 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.

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- D.** As liens become delinquent, the Revenue Division 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 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 Revenue Division 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.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A.** The Revenue Division may evaluate individual delinquent open liens to develop recommendations on revising the payment amount of the lien and the payment terms. The Revenue Division'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 who does not work in the Revenue Division. 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 Revenue Division's recommendations. The Collections Committee shall make a written determination accepting, revising or rejecting the Revenue Division'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 Revenue Division shall notify the property owner in writing of the Collections Committee's determination.

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- 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;
  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 Revenue Division 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.



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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.

**5.30.070 Catch-up Payment Program.**

(Amended by Ordinance Nos. 179361 and 189413, effective March 6, 2019.)

- 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 Revenue Division 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 Revenue Division'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 Revenue Division 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 Revenue Division 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, 179361 and 189413, effective March 6, 2019.)

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- A.** Under the Hardship Payment Program, a property owner may pay only interest and billing charges for a period not to exceed 12 months.
- 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 Revenue Division 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 Revenue Division shall review and approve or deny applications for individual payment plans under the Hardship Payment Program.
  - 4.** If the Revenue Division determines that a property owner is qualified to participate in the Program, the Revenue Division 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 Revenue Division shall periodically review each individual payment plan to verify the qualifications of the participant.
  - 6.** At the conclusion of an individual payment plan, the Revenue Division shall bill any property owner who has complied with the individual payment plan, but has not paid the account in full, according to the Revenue Division's standard billing procedures.

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7. A payment for the specified amount in the Hardship Payment Plan Agreement (HPPA) must be received in the Revenue Division with the signed HPPA.

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

**5.30.090 Negotiation of Bonded Lien Payment Contracts.**

(Amended by Ordinance No. 189413, effective March 6, 2019.) If the Revenue Division declares a bonded lien payment contract void prior to the property being placed on the foreclosure list, the property owner and the Revenue Division may negotiate new installment payment arrangements. If the Revenue Division 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 Revenue Division 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 Revenue Division shall prepare a form of agreement for negotiated installment payment contracts.

**5.30.100 Preparation of Foreclosure List.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

A. The Revenue Division 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 Revenue Division 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 Revenue Division may determine the number of properties to be placed on the proposed foreclosure list based on current City staffing resources, complexity of

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accounts, and time and resources necessary to complete timely processing of foreclosing the delinquent liens.

- D.** The Revenue Division shall:
- 1.** Submit the proposed foreclosure list to the Council for Council action;
  - 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 Revenue Division 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.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- 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 City 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 Nos. 178241, 188121 and 189413, effective March 6, 2019.)

- A. The City 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 after 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.**

(Amended by Ordinance Nos. 188121 and 189413, effective March 6, 2019.) As provided below, the City 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 City 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 City Treasurer and contact information. The notice shall also state that there shall be an additional charge for sales costs to date.
- B. Newspaper Notice.

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1. The City Treasurer shall have printed in a daily or weekly 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.**
1. The City 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 if a federal tax lien was recorded more than 30 days of the scheduled date of the foreclosure 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 Nos. 187833 and 189413, effective March 6, 2019.)

- A.** The City 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.

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- 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 City 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.
- 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.**  
(Amended by Ordinance No. 187983, effective September 14, 2016.)

- 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.** Purchaser may make improvements to or perform maintenance on the property during the redemption period. If the purchaser incurs costs for maintaining or improving the property during the redemption period and if the property is redeemed, the City Treasurer may reimburse all or part of the redemption penalty paid by the person redeeming the property to the purchaser.
- 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 Nos. 187833, 187983, 188121 and 189413, effective March 6, 2019)

- A.** After a foreclosure sale, the City 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 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

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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 the certificate of sale.
- C.** The City 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 Revenue Division.

**5.30.200 Entry of Collections and Sales.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A.** The City Treasurer shall return to the Revenue Division the foreclosure list with all collections and sales noted on it within three business days after the sale.
- B.** The Revenue Division 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 Revenue Division and recorded in the City lien docket.

**5.30.210 Redemption.**

(Amended by Ordinance Nos. 187983 and 189413, effective March 6, 2019.)

- 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 City Treasurer of the redemption price. The only acceptable form of payment shall be United States legal currency or cashier's check.



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- C.** The City Treasurer shall issue a receipt to the person redeeming the property and shall report the redemption to the Revenue Division. 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 City 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 and all or a portion of the redemption penalty. 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.
- G.** If a property is redeemed at any time during the redemption period, the redemption period automatically terminates.

**5.30.220 Issuance of Deed.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A.** Upon expiration of the redemption period, the City 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.

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**5.30.240 Sale of Property Purchased by City.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- 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 City Treasurer shall purchase title insurance as a precondition of sale and shall pay the cost of the policy.

**CHAPTER 5.31 - COLLECTIONS &  
FORECLOSURE PROCESS FOR  
DELINQUENT SEWER SAFETY NET LIENS**

(Chapter added by Ordinance No. 163063; amended  
by Ordinance No. 165798, effective September 2,  
1992.)

**Sections:**

- 5.31.005 Purpose.
- 5.31.010 Definitions.
- 5.31.015 Applicability and Foreclosure Options.
- 5.31.020 Authorities and Responsibilities.
- 5.31.025 Collection Process.
- 5.31.027 Renegotiation of Installment Payment Contracts.
- 5.31.030 Preforeclosure Process and Review for Delinquent Tax Accounts.
- 5.31.035 Preparation of Preforeclosure List.
- 5.31.045 Review of Final Foreclosure List.
- 5.31.050 Council Action on Final Foreclosure List; Recording of Notice.
- 5.31.055 Notice to Persons on Final Foreclosure List of Foreclosure Action.
- 5.31.060 Purchase of Property by the City.
- 5.31.065 Payment of Lien and Presale and Sale Conditions.
- 5.31.070 The Sale.
- 5.31.075 Certificate of Sale and Notice to Property Owner.
- 5.31.080 Lien Docket Entry.
- 5.31.085 Redemption.
- 5.31.090 Issuance of Deed.
- 5.31.095 Waste, Improvements to the Property, Nuisance Abatement.
- 5.31.100 Payment of Taxes.
- 5.31.105 Sale of Property.

**5.31.005 Purpose.**

The purpose of this Chapter is to establish a process for the collection of delinquent assessment liens and for the foreclosure of liens on properties which have delinquent Safety Net Loan Program accounts. The emphasis of the collections program will be to maintain good communication with property owners. Persons having an interest in the property may bring the account current until the time of the sale. After the sale, any person redeeming the property must pay the account in full. This Chapter provides the authority for the City to recover its costs associated with the collection of delinquent accounts and establishes penalties and other incentives to encourage payment. Foreclosure is viewed as a last resort. It is the intent of the City to use foreclosure to protect the interests of the State of Oregon.

**5.31.010 Definitions.**

- A. As used in this Chapter only, the following terms shall mean:

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1. **“Assessment lien”** means a lien placed upon certain real property for its proportionate share of costs incurred in the construction of the sewer system or for the connection of the property to the sewer system.
2. **“Collection costs”** means the costs associated with the collection of the assessment such as billing and rebilling charges.
3. **“Delinquent assessment lien”** means an assessment installment payment which has not been paid within 30 days after the installment payment due date.
4. **“Department of Environmental Quality”** means the State of Oregon, Department of Environmental Quality.
5. **“Foreclosure sale”** means a legal process which allows the City to foreclose and to sell property to liquidate a delinquent lien.
6. **“Foreclosure sale list”** means a list of properties with delinquent assessments which the City will see at a foreclosure sale.
7. **“Redemption period”** means the one-year period during which a person with an interest in the property may redeem the property which has been sold at a foreclosure sale to satisfy a delinquent assessment.
8. **“Redemption price”** means the sales price plus interest and penalties.
9. **“Sales costs”** means costs associated with the sale including the cost of advertising, sale direct and indirect costs related to notification such as the cost of any reports required to determine the names of persons having an interest in the property or the status of the property, printing, postage, advertising, posting of the property, title insurance and staff salaries, benefits and overhead costs directly expended to complete the sale.
10. **“Sale price”** means the amount owing on the principle, interest, penalties, collection costs and sales costs.
11. **“Sewer safety net participating property”**: A property on which the assessment or connection charge has been funded by the City of Portland, Sewer Safety Net Loan Program.

**5.31.015 Applicability and Foreclosure Options.**

- A. The provisions of this Chapter apply to delinquent assessment liens on Sewer Safety Net participating properties. The provisions of this Chapter do not apply to delinquent bonded liens or delinquent open liens. The foreclosure procedures applicable to these types of liens are set forth in Chapter 5.30.

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- B.** The City shall not be limited to the foreclosure process in this Chapter. The City may elect to use a Judicial Foreclosure process or to sell the property as provided in the Charter, City Code or state law.

**5.31.020 Authorities and Responsibilities.**

(Amended by Ordinance Nos. 181483 and 189413, effective March 6, 2019.)

- A.** The Revenue Division shall maintain the records related to Sewer Safety Net assessment liens, bill and collect lien accounts, administer the preforeclosure collection process, prepare a preforeclosure list, and transmit the preforeclosure list to the City's Bureau of Environmental Quality and the Commissioners for informal review and prepare a final foreclosure list for review by the Council. The Revenue Division shall also renegotiate loans, reduce the amount of liens, terminate foreclosure proceedings or eliminate liens as directed by the Department of Environmental Quality.
- B.** The Council shall review the final foreclosure list and adopt an ordinance which lists the properties subject to foreclosure and subject to purchase.
- C.** The City Treasurer shall administer the foreclosure sale process, purchase property identified by the Department of Environmental Quality and Council for purchase by the City, administer the redemption process and execute deeds conveying the property sold. There shall be at least one sale held annually.
- D.** The OMF Business Operations Division shall manage, maintain, rent or market for sale properties purchased by the City Treasurer for collection of delinquent assessments.

**5.31.025 Collection Process.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A.** The Revenue Division shall establish a collections process and shall be authorized to:
  - 1.** Establish in writing, rules and procedures to carry out provisions of this Section. Maintain a record of the rules and procedures and make the rules available to the public.
  - 2.** Establish fees including a billing and rebilling fee to recover the cost of collecting the delinquent lien amount;
  - 3.** Establish penalties and increases in the interest rate to encourage early payment of delinquent lien accounts; and

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4. Report delinquent lien accounts to a credit rating bureau to encourage payment if directed by the Department of Environmental Quality and the Council.
- B. The Revenue Division will notify the Bureau of Environmental Services when an account becomes 60 days past due. The collection process shall begin after the account becomes 90 days past due. The Bureau of Environmental Services may delay the collection process up to 12 months if it notifies in writing to the Revenue Division and the Department of Environmental Quality. Such notification will include the account number, the principal balance, the past due amount, and the extenuating circumstances that would justify a delay in the collection process. The collections process at a minimum shall include the following steps:
  1. The property owner and mortgage holder shall be notified of the delinquent assessment or connection charge for each of three months prior to the sale.
  2. The notice shall state that if the account is not brought current, the property will be sold at a foreclosure sale.
  3. The Department of Environmental Quality shall be given a copy of the foreclosure list at least three months before the sale.
- C. A one-time penalty equal to one-half of one percent (.005) of the principal balance shall be added to the amount due at the date any assessment or installment payment becomes delinquent. The penalty accumulates with each installment payment until the lien is brought current or paid in full.
- D. Interest shall be added to delinquent liens and shall be calculated daily based on the amount of the unpaid principal balance and the interest rate set by the installment contract.
- E. The Revenue Division may waive delinquent interest, penalties and charges if a delay in receiving payment is caused by an oversight, omission or error by City staff.
- F. The Revenue Division is authorized to void the installment payment provisions of a sewer safety net contract, as follows:
  1. After a sewer safety net assessment becomes delinquent and prior to the Revenue Division placing the property on the foreclosure list, the Revenue Division may void the installment payment provisions and require the property owner to renegotiate new installment payment arrangements.
  2. After a sewer safety net assessment becomes delinquent and the Revenue Division has placed the property on the foreclosure list, the Revenue

Division shall void the installment payment provisions and require the property owner to renegotiate new installment payment arrangements.

**5.31.027 Renegotiation of Installment Payment Contracts.**

(Added by Ordinance No. 167655; amended by Ordinance No. 189413, effective March 6, 2019.) When the Revenue Division declares the installment payment provisions of a sewer safety net contract void, the property owner may renegotiate new provisions to pay in installments the unbilled principal portion of the sewer safety net account. The Revenue Division shall offer new installment contract terms and conditions which protect the City's financial condition and assure the repayment of the sewer safety net account. The Revenue Division shall set the interest rate on the renegotiated contract at a rate greater than or equal to the interest rate of the original installment payment contract. The renegotiated installment contract shall be in the same form as required by Chapter 17.12 of this Code for assessment installment payment contracts. The property owner or other interested party shall pay all delinquent assessment installments before the City will accept the renegotiated installment payment contract.

**5.31.030 Preforeclosure Process and Review for Delinquent Tax Accounts.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. At the conclusion of the collection process, the Revenue Division shall prepare a list of delinquent lien accounts. No property shall be placed on the list unless the payment is at least one year past due. There shall be a sale at least once a year.
- B. The Revenue Division shall determine whether any properties on the delinquent accounts list are also delinquent in the payment of property taxes. The Revenue Division shall identify those properties which are likely to be foreclosed upon by the County prior to the City's foreclosure sale .
- C. The Revenue Division shall review the list of properties to be foreclosed upon by the County and shall make a recommendation to the Bureau of Environmental Services and Department of Environmental Quality regarding any properties which should be purchased. The determination of whether to pay the taxes shall be based on whether the total amount of the liens and taxes on the property is less than the market value of the property or, if the property has been sold, whether the sale price received by the County was enough to pay the amount of the City liens upon resale. The Department of Environmental Quality by written letter shall direct the City Treasurer on which properties shall be purchased by the City.
- D. The City Treasurer shall remove from the County foreclosure list and notify the Revenue Division to add the total amount paid to the County to the lien against the property. The City Treasurer shall pay the County from funds designated and provided by the Department of Environmental Quality.

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**5.31.035 Preparation of List.**

- A.** All delinquent properties satisfying the requirements of this Chapter shall be placed on the preforeclosure list, unless a delay in the collections process has been authorized pursuant to Section 5.31.025 B above.
- B.** No property on the preforeclosure list shall be placed on the final foreclosure list until the following steps have been taken:
  - 1.** The current property owners have been determined. The record shall state how the property ownership status was determined.
  - 2.** The property owner has received at least two written delinquency notices within a three-month period prior to the sale. The notice shall be sent certified mail, return receipt requested and by first class mail. The notice shall identify the property, the amount owing (principal, interest, penalties, and collection costs) and state the costs of the sale that will be charged to the account. In addition, the notice shall identify the type of the delinquent lien account and the fact that the property will be placed on the foreclosure list unless the account is brought current. The record shall contain a copy of the notice and the returned receipts.

**5.31.045 Review of Final Foreclosure List.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A.** The Revenue Division shall transmit a copy of the final foreclosure list to each Commissioner and to the Department of Environmental Quality for review. Any comments shall be transmitted to the Revenue Division within 15 working days from the date the Revenue Division sends the final foreclosure list to the Commissioners and Department.
- B.** The Council shall:
  - 1.** Review the final foreclosure list and shall make a report to the Revenue Division regarding whether each step in the preparation of the final foreclosure list, as set forth in City Code 5.31.025 B. and 5.31.035 B. has been applied correctly.
  - 2.** Review the list of properties which have been on the final foreclosure list but for which no bids were received and make a recommendation on each property to the Department of Environmental Quality regarding how the property should be handled in order to liquidate the lien; and
  - 3.** Transmit to the Revenue Division the instructions from the Department of Environmental Quality regarding how to handle each property which has been placed on the final foreclosure list but not sold.



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- C. The Revenue Division shall:
1. Prepare a report to the Council which identifies properties which have been deleted from the list based on the recommendations of the Commissioners;
  2. Transmit to the Council a list of properties which have twice been on final foreclosure lists and which have not sold together with the directions from the Department of Environmental Quality and Commissioners regarding how each property shall be handled; and
  3. Prepare a revised final foreclosure list for submission to the Council for Council action.

**5.31.050 Council Action on Final Foreclosure List; Recording of Notice.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. The Council shall review the final foreclosure list and reports submitted by the Revenue Division to determine:
1. Whether each step in the collection process as set forth in City Code 5.31.025 B. and 5.31.035 B. has been applied correctly; and
  2. The Council shall act by ordinance and shall identify for the Revenue Division and City Treasurer which properties should be placed on the final foreclosure list and as directed by the Department of Environmental Quality and the Council which properties on the list should be purchased by the City in the event no bids are received on those properties, and the source of the funds to be used to purchase the property.
- B. The final foreclosure list shall be transmitted to the City Treasurer by the Council Clerk. After list is submitted to the City Treasurer, the only payment option is to bring the account current.
- C. The City Treasurer shall record a Notice of Foreclosure and Sale for each property listed on the final foreclosure list in the County records in which the property is located before ordering a foreclosure report and before giving notice as required by City Code 5.30.065. The notice shall contain the ordinance number adopting the final foreclosure list; the address and legal description of the property, the time, date and place of the sale, the types and amounts of assessments and that the property will be sold unless the account is brought current and all interest, penalties, collection costs and sales costs to date are paid. It shall also state the name of the person and address and phone number where additional information is available.

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- D. The City Treasurer shall determine the names and addresses of all persons having an interest in the sale including lien holders and whether the property is part of a bankruptcy estate. This may be done by purchasing a report from a title company.
- E. Any property which is part of a bankruptcy estate shall be removed from the sale or the City Attorney should be requested to seek relief from the stay from the Bankruptcy Court.

**5.31.055 Notice to Persons on Final Foreclosure List of Foreclosure Action.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. Individual notice.
  - 1. The City Treasurer shall mail a “Notice of Foreclosure” to all persons having an interest in the property and to all persons requesting notice. It shall be sent at least 60 days prior to the sale by certified mail, return receipt requested.
  - 2. The 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 account stating both the principal and interest due as well as any penalties and collection charges, the type of the delinquent account, and the name of the City Treasurer. It shall also state that there shall be an additional charge.
  - 3. The City Treasurer shall retain and file the returned mailing receipt.
- B. Newspaper notice.
  - 1. The City Treasurer shall have printed in a daily newspaper of general circulation the notice of sale once a week for four successive weeks.
  - 2. The notice shall contain the information required in City Code 5.31.055 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 certified mail, return receipt requested and a copy of the notice shall be retained in the file.
- C. Posted notice.
  - 1. The City Treasurer shall have notice posted on the property at least once, no less than four weeks before the sale. Proof of posting shall be maintained in the property foreclosure file.

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2. The notice shall contain the information required in City Code 5.31.055 A 2.
  3. The City Treasurer shall prepare an affidavit of posting and a copy of the affidavit shall be retained in the file.
- D.** Other notice.
1. Notice shall be given to the Internal Revenue Service by certified mail, return receipt requested, at least 25 days prior to the sale.

**5.31.060 Purchase of Property by the City.**

- A.** The City may purchase property on the final foreclosure list for City properties before, during or after the sale subject to the following conditions:
1. The Department of Environmental Quality and the Council have directed the purchase of the property in the ordinance adopted under City Code 5.31.050 B, and the money has been transferred to the proper assessment fund;
  2. In the case of property purchased before the sale, any person having an interest in the property is given an opportunity to bring the account current and pay the collection and sales costs, and thereby remove the property from the list as provided by City Code 5.31.065 A; and
  3. Any person having an interest in the property may redeem the property as provided by City Code 5.31.085.

**5.31.065 Payment of Lien and Presale and Sale Conditions.**

(Amended by Ordinance Nos. 167655 and 189413, effective March 6, 2019.)

- A.** A person with an interest in the property may remove the property from the foreclosure list by paying the amount of the delinquent assessment with penalties, interest, collection costs and sales costs incurred to date any time prior to the sale. In addition, in the case of installment payments, the Revenue Division shall void the installment provision of the sewer safety net contracts and require the property owner or interested person to renegotiate new installment payment arrangements as provided in this Chapter. Payment plans as provided by PCC 5.30.035 may not be initiated as a means to bring the account current. If requested, notice that the property has been removed from the sale, shall be recorded in the County records in which the property is located.
- B.** A bidder purchases the property “as is.” There shall be no opportunity for an on site inspection of the land or buildings unless the bidder has permission from the owner.

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**5.31.070 The Sale.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. The City Treasurer shall prepare rules governing the conduct of the sale. The rules shall be available at least 60 days prior to the sale.
- B. Each piece of property shall be sold separately . The sales price shall be the amount owing on the principle, interest, penalties, collections costs and sales.
- C. The interest charged during the redemption period shall be set by ordinance. The interest rate shall be set at a level which attracts bidders, but shall be equal to or greater than the interest rate established for the Sewer Safety Net loans.
- D. The penalty charged during the redemption period shall be set by ordinance. It shall be set at a rate to encourage payment by delinquent property owners.
- E. In situations where there are two or more bids, the successful bidder shall be determined by lot.
- F. Property which is not sold may again be offered for sale. The steps in City Code 5.31.050 D. through City Code 5.31.105 shall be followed.
- G. In the event there is more than one bidder and the successful bidder fails to pay, the property shall be sold to the other bidder or in the event there were more than two bidders, the successful bidder shall be determined by lot.

**5.31.075 Certificate of Sale and Notice of Sale to Property Owner.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. The City Treasurer shall immediately deliver a certificate of sale to the purchaser. The certificate of sale is a 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 City to place additional liens on the property and the right of 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 a deed is given to the purchaser.
- 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 interest rate and the amount of the 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.

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- C. The City Treasurer shall send to the property owner and all persons known to have an interest in the property a “Notice of the Sale” by certified mail, return receipt requested and by first class mail, within 10 working days after the sale. Notice shall be sent to any persons known to have acquired an interest in the property since initial notice was given unless a notice was recorded. 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 keep the purchaser’s current address on file with the City Treasurer.

**5.31.080 Lien Docket Entry.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. The City Treasurer shall return to the Revenue Division the final foreclosure list with all collections and sales noted on it within three business days after the sale.
- B. The Revenue Division shall make the proper entries of the collections and sales in the appropriate lien docket.

**5.31.085 Redemption.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. Any person having an interest in the property, or their legal representative, may redeem the property within one year from the date of sale. The one-year period is computed as follows. The date of the sale shall not be counted. The period shall begin to run the day after the sale. The last day of the one-year period shall be the 365th day at 5 p.m. on the next working day. Purchasers have no redemption rights.
- B. Redemption shall be subject to the payment to the City Treasurer of the amount of the property sale price , the interest to date and the penalty to date. Property which has been sold at a foreclosure sale is not eligible for installment payments. Property may be redeemed only by payment in full.
- C. The City Treasurer shall issue a receipt to the person redeeming the property and shall report the redemption to the Revenue Division. 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.

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- E. Upon deposit of the sum in redemption, the City Treasurer shall issue a check or warrant for the amount paid to the holder of the certificate of sale shown on the lien docket for the amount of the delinquent account, costs and interest.

**5.31.090 Issuance of Deed.**

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. Upon expiration of the redemption period, the City Treasurer shall execute a deed conveying the property sold. The deed conveys to the grantee the legal and equitable title in fee simple.
- 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 deed conveys title in fee simple excepting only for the liens of the City which were not included in the foreclosure sale or other liens as provided by state law. The deed, however, does not guarantee clear title.
- D. The grantee shall be entitled to immediate possession upon delivery of the deed.

**5.31.095 Waste, Improvements to the Property, Nuisance Abatement Procedures.**

- A. The City shall not be responsible for damage to the property during the redemption period. The purchaser assumes all risk.
- B. Any improvements or maintenance to the property made by a purchaser during the redemption period shall be made by 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 reserves the right to enforce its nuisance abatement code provisions which may result in additional assessments against the property and which may become the liability of the purchaser.
- D. The property may also become subject to special assessments.

**5.31.100 Payment of Taxes.**

- A. 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.

**5.31.105 Sale of Property.**

(Amended by Ordinance Nos. 181483 and 189413, effective March 6, 2019.)

- A.** Any property purchases by the City from the foreclosure list may be sold as directed by the Council by the OMF Business Operations Division in the manner provided by the Charter or state law. The 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 Referral Account unless otherwise designated by Council.
- B.** Except in situations where the purchaser agrees to accept a quit claim deed, the City Treasurer shall purchase title insurance as a precondition of sale and shall pay the cost of the policy.
- C.** In cases where the title report shows a defect in title, the defect shall be referred to the City Attorney. The City Attorney shall take the steps necessary to clear the title.

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**CHAPTER 5.32 - PURCHASING AGENT AND  
PROCEDURES**

(Chapter repealed by Ordinance Nos. 174509 and  
174904, effective January 1, 2001.)



**CHAPTER 5.33 - GOODS AND SERVICES**

(Chapter replaced by Ordinance No. 180350,  
effective August 25, 2006.)

**Sections:**

- 5.33.010 Definitions.
- 5.33.020 City Council as Local Contract Review Board.
- 5.33.030 Application of Purchasing Code.
- 5.33.040 Authority of Chief Procurement Officer.
- 5.33.060 Authority of Directors.
- 5.33.065 Authority for Stormwater Improvements.
- 5.33.070 Purchasing Goods, Services and Public Improvements from City Employees.
- 5.33.075 Affirmative Action.
- 5.33.076 Equal Employment Opportunity.
- 5.33.077 Equal Benefits.
- 5.33.080 Sustainable Procurement.
- 5.33.085 Preference for Goods Fabricated or Processed within State or Services Performed Within State.
  
- 5.33.090 Use of Price Agreements.
- 5.33.100 Overview of Source Selection and Contractor Selection.
- 5.33.105 Feasibility and Cost Analysis.
- 5.33.110 Qualified Rehabilitation Facilities.
- 5.33.120 Sole-Source Procurements.
- 5.33.130 Emergency Procurements.
- 5.33.135 Declaration of State of Emergency or Disaster.
- 5.33.140 Cooperative Purchasing.
- 5.33.145 Rules on all types of Cooperative Procurements.
- 5.33.150 Joint Cooperative Procurements.
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- 5.33.170 Interstate Cooperative Procurements.
- 5.33.180 Small Procurements.
- 5.33.190 Intermediate Procurements.
- 5.33.200 Competitive Sealed Bidding.
- 5.33.205 Multi-Step Sealed Bidding.
- 5.33.210 Competitive Sealed Proposals, (RFP's).
- 5.33.211 Procedures for Competitive Range, Multi-Tiered and Multi-Step Proposals.
- 5.33.220 Special Procurements.
- 5.33.300 Public Notice of Solicitation for Contracts over \$150,000.
- 5.33.310 Specifications and Brand Names.
- 5.33.320 Bids or Proposals are Offers.
- 5.33.340 Electronic Procurement.
- 5.33.350 Reverse Auctions.
- 5.33.360 Contract Conditions.

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- 5.33.400 Offer Preparation.
- 5.33.410 Bid or Proposal Security.
- 5.33.420 Pre-Offer Conferences.
- 5.33.430 Addenda to Solicitation Document.
- 5.33.440 Request for Clarification or Change.
- 5.33.450 Offeror Submission.
- 5.33.460 Pre-Closing Modification or Withdrawal of Offers.
- 5.33.470 Receipt, Opening and Recording of Offers.
- 5.33.480 Late Offers, Late Withdrawals and Late Modifications.
- 5.33.490 Mistakes.
- 5.33.495 Time for City Acceptance.
- 5.33.500 Responsibility of Offerors.
- 5.33.505 Qualified Products Lists.
- 5.33.510 Prequalification of Prospective Offerors; Pre-Negotiation of Contract Terms and Conditions.
- 5.33.530 Debarment of Prospective Offerors.
- 5.33.540 State of Oregon COBID Certified firms Prohibited Conduct; Sanctions; Appeals.
- 5.33.610 Offer Evaluation and Award.
- 5.33.620 Negotiation With Offerors Prohibited.
- 5.33.625 Contract Preferences.
- 5.33.630 Reciprocal Preferences.
- 5.33.635 Contract Preferences: Recycled Materials.
- 5.33.640 Rejection of All or Part of an Offer.
- 5.33.645 Rejection of All Offers.
- 5.33.650 Notice of Intent to Award.
- 5.33.660 Cancellation, Delay or Suspension of Solicitation.
- 5.33.670 Disposition of Offers if Solicitation Canceled.
- 5.33.675 Documentation of Award.
- 5.33.685 Availability of Award Decisions.
- 5.33.690 Performance and Payment Security; Waiver.
- 5.33.695 Notification to State of Nonresident Contractor.
- 5.33.700 Protests and Judicial Review of Special Procurements.
- 5.33.710 Protests and Judicial Review of Sole-Source Procurements.
- 5.33.720 Protests and Judicial Review of Multi-Tiered Solicitations.
- 5.33.730 Protests and Judicial Review of Solicitation Documents and the Procurement Process.
- 5.33.740 Protests and Judicial Review of Contract Award.
- 5.33.750 Protests of Other Violations.
- 5.33.760 Review of Prequalification and Debarment Decisions.
- 5.33.770 Procurement Board of Appeals.
- 5.33.780 Powers of the Board.
- 5.33.790 Appeal to Board.
- 5.33.900 Social Equity Contracting and Employment Programs.
- 5.33.920 Records Maintenance; Right to Audit Records.

- 5.33.930 Right to Inspect Plant or Place of Business.
- 5.33.940 Contract Cancellation, Contractor Termination Procedures.
- 5.33.950 Unsolicited Proposal Policy.

**5.33.010 Definitions.**

(Amended by Ordinance Nos. 181547, 183445, 185898, 187373, 187974 and 189878, effective March 4, 2020.)

- A. The following definitions apply to the City of Portland’s Purchasing Authority, Policies and Rules as contained in this Chapter.
  - 1. **Addendum or Addenda:** Additions or deletions to, material changes in, or general interest explanations of the City’s Solicitation Documents.
  - 2. **“Administering Contracting Agency”** means a governmental body in this state or in another jurisdiction that solicits and establishes the original Contract for Procurement of goods, services or Public Improvements in a Cooperative Procurement.
  - 3. **Advantageous:** In the City’s best interests, as assessed according to the judgment of the City.
  - 4. **Affected Person/Offeror:** A Person or Offeror whose ability to participate in a Procurement or Public Improvement Contract is adversely affected by the City.
  - 5. **Amendment:** A change to a Contract made by addition, deletion, or correction.
  - 6. **Authorized Representative:** A person with legal authority to execute, amend, or terminate a Contract.
  - 7. **Award:** The decision of the City to enter into a Contract with an Offeror.
  - 8. **Bid:** A response to an Invitation to Bid.
  - 9. **Bid or Proposal Bond/Bid or Proposal Security/Offer Security:** A means of securing execution of an Awarded Contract.
  - 10. **Bidder:** An Offeror who submits a Bid in response to the City’s Invitation to Bid.
  - 11. **Chief Procurement Officer:** The person in charge of the Procurement Services Division of the Office of Management and Finance.
  - 12. **City:** The City of Portland, Oregon.

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13. **City Council:** The City’s governing body of elected officials comprised of the Mayor and Commissioners.
14. **Closing:** The date and time announced in the City’s Solicitation Document as the deadline for submitting Offers.
15. **COBID Certified Firm:** a company that has been certified by the State of Oregon Certification Office for Business Inclusion and Diversity (COBID) as a minority-owned, woman-owned, emerging or other business entity. The City recognizes the following certifications: Disadvantaged Business Enterprise (DBE), Minority-owned Business Enterprise (MBE), Women-owned Business Enterprise (WBE), Emerging Small Business Enterprise (ESB) Service-Disabled-Veteran-owned Business Enterprise (SDVBE).
16. **Commercially Useful Function (CUF):** A function or service that the enterprise or business actually performs, for which a demand exists in the marketplace, and for which the enterprise or business receives payment that is proportionate to the work that the enterprise or business performs or that conforms with industry standards. CUF does not include acting as a broker to provide for other to perform work.
17. **Competitive Bidding:** A selection process that involves an advertised public notice, issuance of a Solicitation Document inviting Persons to submit written, signed, and sealed Bids that are received in Procurement Services and publicly opened at a designated time and place.
18. **Competitive Negotiation:** A method of Contracting in which Proposal evaluation and Contract Award result from an open and competitive procedure, typically through the Request for Proposal process, in which evaluation criteria in addition to price are considered in Contractor selection.
19. **Competitive Range:** The number of Proposers the City will conduct discussions or negotiate with if the City intends to conduct discussions or negotiations in accordance with Chapter 5.33 or Chapter 5.34.
20. **Construction Manager/General Contractor (CM/GC):** An alternative contracting method, or a Person selected pursuant to that method, to perform a Public Improvement project. The method typically requires a Contractor or Consultant to undertake design phase involvement, constructability reviews, value engineering, scheduling, estimating and acquiring subcontracting services, establishing a Guaranteed Maximum Price (GMP) to complete the Contract Work, acting as General Contractor, coordinating and managing the building process, and providing General Contractor expertise.

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21. **Contract:** See definition for Public Contract.
22. **Contract Amount:** The total of the Awarded Bid or Proposal amount, including any approved alternates. The original Contract or Price Agreement Amount is, depending on the context, the maximum amount that the City will pay for work performed pursuant to the Contract or Price Agreement or an estimated amount when the amount is based on unit prices. The final Contract or Price Agreement Amount is the amount that the City pays to the Contractor or Consultant after execution of change orders, Amendments, or variations in unit prices, which cause the original Contract or Price Agreement to increase or decrease.
23. **Contract Execution:** Contract Execution occurs when the Contract or Price Agreement is signed by any mark, word, or symbol, in ink, or using Electronic means by an Authorized Representative of an Offeror and the City.
24. **Contractor or Consultant:** The Person with whom the City executes a Contract or Price Agreement.
25. **Cooperative Procurement:** means a Procurement conducted on behalf of more than one governmental body. Cooperative Procurement includes but is not limited to multiagency Contracts and Price Agreements. Cooperative Procurement does not include an agreement formed among only governmental bodies under ORS chapter 190 or by a statute, charter provision, ordinance or other authority for establishing agreements between or among governmental bodies or agencies or tribal governing bodies or agencies.
26. **Cooperative Procurement Group:** means a group of governmental bodies joined through an intergovernmental agreement for the purposes of facilitating Cooperative Procurements.
27. **Cost Estimate:** The City's most recent pre-solicitation, good faith assessment of anticipated Contract costs, consisting of either the estimate of an architect, engineer or other qualified professional, formal planning budgetary, or confidential cost calculation documents, where available.
28. **Days:** Calendar days, including weekdays, weekends and holidays, beginning at midnight and ending at midnight 24 hours later, unless otherwise specified by these rules or the Solicitation Document.
29. **Descriptive Literature:** Informational materials concerning available products or services submitted by Offerors in response to the City's Solicitation Document.

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- 30. Domestic Partner:** Any person who is registered with his or her employer as a domestic partner, or, in the absence of an employer-provided registry, is registered as a domestic partner with a governmental body pursuant to state or local law authorizing such registration and who is in fact a current domestic partner with the person with whom that person was registered.
- 31. Electronic:** Any means of transmission of information by electronic device, including but not limited to electronic mail.
- 32. Electronic Advertisement:** A notice of the City’s Solicitation Document available through the City’s Electronic Procurement System.
- 33. Electronic Offer:** A response to the City’s Solicitation Document via the City’s Electronic Procurement System.
- 34. Electronic Procurement System:** A system that Persons may access through the Internet, or that Persons may otherwise remotely access through a computer, that enables Persons to send Electronic Offers and the City to post Electronic Advertisements, receive Electronic Offers, and conduct other activities related to the City’s Procurement of Goods and Services.
- 35. Emergency:** Circumstances that:

  - a. could not have been reasonably foreseen;
  - b. create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and
  - c. require prompt execution of a Contract to remedy the condition.
- 36. Emergency Procurement Contract:** A Contract Awarded and executed in response to an Emergency.
- 37. Equal Employment Opportunity (EEO):** An Equal Employment Opportunity Employer is one who does not engage in the discrimination prohibited by Federal law and who is registered as an EEO employer with the City of Portland.
- 38. Equal Benefits (EB):** means the provision of the same or equivalent benefits to employees with spouses and employees with Domestic Partners, to spouses of employees and Domestic Partners of employees, and to dependents and family members of spouses and dependents and family members of Domestic Partners.

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39. **Facsimile:** A document that has been transmitted to and received by the City in a format that is capable of being received by a device commonly known as a facsimile machine. A facsimile machine allows hard copy documents to be sent over telephone lines and be printed in another location.
40. **Goods:** Supplies, equipment, materials, personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto, and combinations of any of the items identified in this definition.
41. **Interstate Cooperative Procurement:** A permissive Cooperative Procurement in which the Administering Contracting Agency is a governmental body, domestic or foreign, that is authorized under the governmental body's laws, rules or regulations to enter into Contracts and in which one or more of the participating governmental bodies are located outside this state.
42. **Invitation to Bid (ITB):** The written document that invites offers from prospective contractors pursuant to either ORS 279B.055 or 279C.335.
43. **“Joint Cooperative Procurement”** means a Cooperative Procurement in which the participating governmental bodies or the Cooperative Procurement group and the bodies' or group's Contract requirements or estimated Contract requirements for Price Agreements are identified.
44. **Life Cycle:** consecutive and interlinked stages of a Goods or Services system, from cradle to grave, e.g. from resource generation and raw material acquisition through production, use, and final disposal.
45. **Life Cycle Analysis or Life Cycle Assessment:** a comprehensive method for assessing a range of environmental impacts across the full life cycle of a Goods or Services system. It is a tool that can be used to evaluate the environmental impacts of a product, material, process, or activity.
46. **Life Cycle Costing:** a method for calculating the costs of Goods or Services throughout their life cycle. It includes total cost of ownership and positive or negative externalities which can be monetized, both to the City and society.
47. **Local Contract Review Board:** The Portland City Council.
48. **Nonresident Bidder:** A Bidder who is not a State of Oregon Resident Bidder.
49. **Offer:** A Bid or Proposal in response to a Solicitation Document.

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50. **Offeror:** A Person who submits an Offer.
51. **Opening:** The date, time and place announced in the Solicitation Document for the public unsealing of sealed Offers.
52. **Original Contract** means the initial Contract or Price Agreement solicited and Awarded during a Cooperative Procurement by an Administering Contracting Agency.
53. **Permissive Cooperative Procurement** means a Cooperative Procurement in which the Purchasing Contracting Agencies are not identified.
54. **Person:** An individual, corporation, business trust, estate, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity who has the legal capacity to enter into a Contract or Price Agreement.
55. **Personal Services:** as used in these rules, means services performed under a Professional, Technical or Expert Services Contract governed by Chapter 5.68 or pursuant to ORS 279A.055.
56. **Prequalification:** Depending on the context, either the process followed by the City to determine the qualifications of an Offeror or the process to determine the suitability of particular Goods.
57. **Price** means the cost to the City of the Goods and/or Services under Contracts procured under the procurement Code of the City of Portland.
58. **Price Agreement:** A Contract for the Procurement of Goods or Services at a set price with:
- a. No guarantee of a minimum or maximum purchase; or
  - b. An initial order or minimum purchase combined with a continuing Contractor or Consultant obligation to provide Goods or Services, in which the City or other contracting agency does not guarantee a minimum or maximum additional purchase.
59. **Procurement:** The act of purchasing, leasing, renting or otherwise acquiring Goods or Services. Procurement includes each function and procedure undertaken or required to be undertaken by the City to enter into a Contract or Price Agreement, administer a Contract or Price Agreement and obtain performance against a Contract or Price Agreement.
60. **Procurement List** means a listing of those nonprofit agencies for Disabled Individuals that currently are qualified to participate in the program created



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by ORS 279.835 to 279.850 and includes a list of the products and Services offered by such agencies and determined by the State Procurement Office to be suitable for purchase by the City.

61. **Procurement Services:** A division of the Bureau of Revenue and Financial Services in the City of Portland.
62. **Product Sample:** The exact goods, or a representative portion of the exact goods requested by a Solicitation Document.
63. **Project:** All components of a City's planned undertaking that gives rise to the need for Goods or Services.
64. **Proposal:** A Written response to a Request for Proposals.
65. **Proposer:** A Person who submits a Proposal in response to the City's Request for Proposals.
66. **Public Contract:** A sale or other disposal, or the purchase, lease, rental or other acquisition, by the City of personal property, Services, including personal Services, Public Improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a Public Improvement, but does not include "grants."
67. **Public Improvement:** A project for construction, reconstruction or major renovation on real property by or for the City. Public Improvements do not include projects for which no funds of the City are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection or Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a Public Improvement.
68. **Public Notice: (also Notice and Notice of Intent)** A notice in written or electronic format by the City of its intention to perform an action such as, but not limited to, issuing a solicitation or entering into a contract.
69. **Procuring Contracting Agency:** means a governmental body that procures goods, services or Public Improvements from a Contractor based on the Original Contract established by an Administering Contracting Agency.
70. **Qualified Rehabilitation Facility (QRF):** A nonprofit community rehabilitation facility certified as a community rehabilitation program or a vocational service provider through the Oregon Department of Human Services through ORS 278.835 to 278.850 whose purpose is to assist and encourage disabled individuals and which:

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- a. During the fiscal year employs disabled individuals for not less than 75 percent of the hours of direct labor required for the manufacture or provision of its products or services.
  - b. Shall be either a community rehabilitation program certified through the Oregon Vocational Rehabilitation Division or a vocational service provider certified through the Oregon Mental Health Division of the Department of Human Resources;
  - c. Meets the definition given in ORS 279.835(4); and
  - d. Shall be currently certified by the Oregon Department of Administrative Services as a QRF; i.e., is listed as a current certificate holder in the annual QRF Directory, published by that Department.
71. **QRF Contract:** A Contract entered into under the program created by ORS 279.835 to 279.850.
72. **Repair and Maintenance:** Ordinary repairs and maintenance necessary to preserve a public improvement. Typically such repairs and maintenance do not prolong the lifespan of a public improvement nor increase its value beyond what was originally constructed.
73. **Request for Proposals (RFP):** All documents, paper or electronic, used for soliciting Proposals in accordance with these rules, or when permitted by Chapter 5.34 and 5.68.
74. **Request for Qualifications (RFQ):** A Written document, issued by the City to prospective Contractors or Consultants, that seeks a description of their experience and qualifications to perform certain identified Work that may or may not lead to the issuance of an RFP.
75. **Resident Bidder:** A Bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the Bid, has a business address in this state and has stated in the Bid whether the Bidder is a “Resident Bidder” as this is defined.
76. **Responsible Offeror, Bidder or Proposer:** A Person who has submitted an Offer, Bid or Proposal and who meets the standards set forth in Sections 5.33.500 or 5.34.500, as applicable, and who has not been debarred, disqualified, or who has not failed to prequalify when Prequalification is required by the Solicitation Document.

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77. **Responsive Offer, Bid or Proposal:** An Offer, Bid or Proposal that substantially complies in all material respects with applicable Solicitation procedures and requirements and the Solicitation Document.
78. **Scope:** The range and attributes of the Goods or Services described in the applicable Solicitation Document.
79. **Services:** All services other than personal or PTE services covered by Portland City Code Chapter 5.68.
80. **Signature:** Any Written or Electronic mark, word or symbol that is made or adopted by a Person with the intent to be bound to a Contract or Price Agreement.
81. **Social Cost of Carbon:** the net present value of climate damages (with harmful damages expressed as a positive number in dollars per metric ton of CO<sub>2</sub>-equivalent) from one or more tons of CO<sub>2</sub> or CO<sub>2</sub>-equivalent emissions. The social cost of carbon is meant to be a comprehensive estimate of climate change damages and includes, among other things, changes in net agricultural productivity, human health, property damages from increased climate risks, changes in energy system costs, and the value of ecosystem services.
82. **Solicitation:** A request by the City for prospective Contractors or Consultants to submit Offers.
83. **Solicitation Document:** An Invitation to Bid, Request for Proposals or other document issued to invite Offers from prospective Contractors or Consultants pursuant to ORS Chapter 279B or 279C. All documents referenced by the Solicitation Document are included in, and considered part of, the Solicitation Document.
84. **Specification:** A description of the physical or functional characteristics, or of the nature of a supply, Services or construction item, including any requirement for inspecting, testing or preparing a supply, Services or construction item for delivery and quantities or qualities of materials to be furnished under a Contract or Price Agreement. Specifications generally will state the result to be obtained and may, on occasion, describe the method and manner of doing the Work to be performed.
85. **Subcontractor/Subconsultant:** A Person, other than the Contractor or Consultant's employee, hired by the Contractor or Consultant to perform a portion of the Work required by the Contract.

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- 86. Sustainable Procurement:** procurement that has the greatest positive environmental, social and economic impacts possible over the entire life cycle.
- 87. Total Cost of Ownership:** the comprehensive accounting of the total cost of acquiring a good or service, including initial costs, energy and operational costs, regulatory costs, longevity and efficacy of service, and disposal costs.
- 88. Work:** The act of furnishing of all materials, equipment, labor, and incidentals necessary to successfully complete any individual item in a Contract or Price Agreement or, in context, the entire Contract or Price Agreement and the timely successful completion of all duties and obligations imposed by the Contract.
- 89. Writing:** Letters, characters and symbols inscribed by hand, print type or any other method of impression, intended to represent or convey particular ideas or meanings.

**5.33.020 City Council as Local Contract Review Board.**

(Amended by Ordinance Nos. 184403, 185065, 185898, 187373 and 189878, effective March 4, 2020.)

- A.** Pursuant to ORS 279A.060, the City Council is designated as the Local Contract Review Board for the City. The City Council shall exercise all the powers and duties conferred upon it by State law, except to the extent that such powers and duties have been delegated by these rules, or by a separate ordinance, to others. In order to carry out its powers and duties, the City of Portland's Purchasing Authority, Policies and Rules, Chapter 5.33, Chapter 5.34, and 5.68 are hereby adopted by City Council.
- B.** The procedural rules of the City Council sitting as the Local Contract Review Board are the same as those regulating City Council as provided by Chapter 3.02.
- C.** The Attorney General Model Public Contracting Rules do not apply to the City's Procurement of goods, services, and certain construction services. Instead, the rules contained in Chapters 5.33 and 5.68 apply to those Procurements. Similarly, the Attorney General Model Public Contracting rules for Construction do not apply, except with respect to CM/GC Procurements. Notwithstanding CM/GC Procurements, the Rules contained in Chapter 5.34 apply to the City's Public Improvements and construction services. It is the intent of these rules to permit the City to act to the full extent permitted by State law. To the extent that the rules adopted in Chapters 5.33, 5.34 and 5.68 appear to give the City less authority than State law, then State law shall prevail and the City may act to the full extent permitted by State law.

- D.** The City Council reserves to itself the authority to authorize Contracts and Price Agreements and Amendments to Contracts and Price Agreements that exceed the contracting authority delegated to the Chief Procurement Officer or other City official by ordinance or City Code.

**5.33.030 Application of Purchasing Code.**

(Amended by Ordinance Nos. 181547, 183445, 185065, 185898 and 189878, effective March 4, 2020.)

- A.** The procurement methods stated in Chapter 5.33 are applicable to the purchase of Goods or Services, or both, but are not applicable to the following:
- 1.** Contracts or agreements to which the State Purchasing Code, ORS Chapters 279A, 279B and 279C, does not apply;
  - 2.** Contracts between the City and:
    - a.** Another “contracting agency” as defined by ORS 279A.010;
    - b.** The Oregon Health and Science University;
    - c.** The Oregon State Bar;
    - d.** A governmental body of another state;
    - e.** The federal government;
    - f.** An American Indian tribe or an agency of an American Indian tribe;
    - g.** A nation, or a governmental body in a nation, other than the United States; or
    - h.** An intergovernmental entity formed between or among governmental bodies of this or another state, the federal government, an American Indian tribe or an agency of an American Indian tribe, a nation other than the United States or a governmental body in a nation other than the United States.
  - 3.** Contracts pursuant to 10 U.S.C. § 381 (relating to law enforcement equipment suitable for counter-drug activities through the Department of Defense), the Electronic Government Act of 2002 (relating to automated data processing equipment, including firmware, software, supplies, support equipment, and services from federal supply schedules), or other federal law that the City Council determines are similar to those Acts in effectuating or promoting transfers of property to the City;

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4. Contracts, agreements or other documents entered into, issued or established in connection with:
  - a. The incurring of debt by a public body, including but not limited to the issuance of bonds, certificates of participation and other debt repayment obligations, and any associated Contracts, agreements or other documents, regardless of whether the obligations that the Contracts, agreements or other documents establish are general, special or limited;
  - b. The making of program loans and similar extensions or advances of funds, aid or assistance by a public body to a public or private body for the purpose of carrying out, promoting or sustaining activities or programs authorized by law; or
  - c. The investment of funds by a public body as authorized by law, and other financial transactions of a public body that by their character cannot practically be established under the competitive Contractor selection procedures of Sections 5.33.100 through 5.33.225;
5. Professional, technical and expert Contracts governed by Chapter 5.68, and any other Contract specifically designated as a Personal Service Contract by the City Council;
6. Grants, defined as follows:
  - a. An agreement under which:
    - (1) the City receives moneys, property or other assistance, including, but not limited to, federal assistance that is characterized by federal law or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities, or other assets;
    - (2) The assistance received by the City is from a grantor for the purpose of supporting or stimulating a program or activity of the City; and
    - (3) No substantial involvement by the grantor is anticipated in the program or activity other than involvements associated with monitoring compliance with grant conditions; or
  - b. An agreement under which:
    - (1) The City provides moneys, property or other assistance, including, but not limited to, federal assistance that is

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characterized as a grant by federal law or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets;

- (2) The assistance is provided to a recipient for the purpose of supporting or stimulating a program or activity of the recipient; and
  - (3) No substantial involvement by the City is anticipated in the program or activity of the recipient other than involvement associated with monitoring compliance with the grant conditions.
7. Acquisitions or disposals of real property or interests in real property;
  8. Sole source expenditures when rates are set by law or ordinance for purposes of these rules concerning source selection;
  9. Revenue Generating Contracts: Contracts whose primary purpose is generating revenue and are typically Awarded to the Offeror proposing the most Advantageous or highest monetary Offer to the City, or both, except to the extent of the Chief Procurement Officer's authority as stated in Section 5.33.040. The City Council may designate a particular Contract as a revenue-generating Contract;
  10. Contracts for Sale of Advertising in City Publications. The right to advertise in City publications may be sold without Competitive Bidding. The City may utilize this exclusion when it publishes material and wants to recoup part of the cost by selling advertising to be placed in that publication. The revenue generated from the sale of advertising shall be applied to the cost of the publication;

**5.33.040 Authority of Chief Procurement Officer.**

(Amended by Ordinance Nos. 181547, 183445, 184403, 185065, 185898, 187373, 187974, 189451 and 189878, effective March 4, 2020.)

- A. For Contracts covered by Chapters 5.33 and 5.34, the Chief Procurement Officer is authorized to:
  1. Advertise for Bids or Proposals without specific authorization from City Council when the anticipated amount is included within the current fiscal year budget and is \$1,000,000 or less.

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2. Award and execute Contracts for the purchase or lease of Goods and Services, without specific authorization by ordinance of City Council whenever the Contract Amount is \$1,000,000 or less.
3. Award and execute Price Agreements for the purchase or lease of Goods and Services if the yearly estimated cost to the City is \$1,000,000 or less.
4. Recommend the Award of a Contract for Goods and Services by a report to City Council for Contracts in excess of \$1,000,000. If the City Council adopts the recommendation, it shall approve the Award by ordinance.
5. Advertise for Bids or Proposals when the proposed purchase is not included within the current fiscal year budget and the anticipated Contract Amount exceeds \$1,000,000 when City Council approves of the purchase by Ordinance. Thereafter, the Chief Procurement Officer may award and execute a Contract if the Contract Amount is \$1,000,000 or less. If the Contract Amount exceeds \$1,000,000 the Chief Procurement Officer shall recommend the Award of a Contract by report to City Council.
6. Authorize and execute amendments for Contracts and Price Agreements involving the procurement of Goods and Services that were originally executed in accordance with Chapters 5.33 and 5.34 as follows:
  - a. Amendments not exceeding 25 percent of the original Contract Amount.
  - b. Amendments exceeding 25 percent of the original Contract Amount, provided that the amended Contract Amount does not exceed \$1,250,000 and the director of the bureau in whose behalf of the Contract was issued concurs.
  - c. Execute amendments to Price Agreements if the yearly estimated cost to the City is \$1,250,000 or less.
  - d. Amendments whenever an ordinance approved by the City Council grants additional authority to the Chief Procurement Officer beyond that stated in these rules.
7. Authorize final payment for a Procurement of Goods and Services after confirming that all Work is completed and accepted by the City, as follows:
  - a. Whenever the final Contract Amount does not exceed 25 percent of the original Contract Amount; or
  - b. Whenever the final Contract Amount exceeds 25 percent of the original Contract Amount, provided that the final Contract Amount



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is less than \$1,250,000 and the Director of the Bureau on whose behalf the Contract was issued concurs.

8. Adopt forms, procedures, and administrative rules for all City purchases of Goods and Services regardless of amount. The City shall use the forms, procedures and administrative rules unless they conflict with the City Code.
  9. Establish a procedure providing appropriate financial control over the authorization provided by Sections 5.33.055 and 5.33.060.
  10. Revoke or place conditions on the authority of directors and officers to issue limited purchase orders obligating the City for purchase of materials or services not to exceed \$10,000, in the event of violations of these rules.
  11. Perform such other duties as directed by the Portland City Code, City Council or the Commissioner-in-Charge of Procurement Services.
  12. Delegate the Chief Procurement Officer's authority under this Chapter in accordance with City practices.
  13. Resolve protests of Contract Award decisions and other matters as required by City Code.
- B.** The Chief Procurement Officer is responsible for and shall make all purchases in accordance with State law, City Charter, and the City of Portland's Purchasing Authority, Policies and Rules, Chapters 5.33 and 5.34.
- C.** In addition to the delegation of authority provided in Paragraph A. above, the Chief Procurement Officer is authorized to:
1. Award, execute and amend Revenue Generating Contracts; and
  2. Award, execute and amend any other Contracts or Price Agreements when authorized by an ordinance adopted by City Council.
- D.** Notwithstanding the grant of authority above, the Chief Procurement Officer may forward any contract or agreement to the City Council for approval.

**5.33.050 Authority for Golf Concession Contracts.**  
(Repealed by Ordinance No. 187373, effective October 14, 2015.)

**5.33.055 Authority of Appropriation Unit Managers.**  
(Repealed by Ordinance No. 187373, effective October 14, 2015.)

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**5.33.060 Authority of Directors.**

(Amended by Ordinance Nos. 183445, 185898, 187373, 187974 and 189878, effective March 4, 2020.) Directors of Bureaus or Offices are authorized to:

- A.** Execute Contracts obligating the City for purchases of Goods and Services for use by their bureau in an amount not to exceed \$10,000 for a single transaction as specified in Section 5.33.180. Procurements shall not be artificially divided or fragmented so as to constitute Procurements under \$10,000.
- B.** Execute Contracts whenever an ordinance approved by the City Council grants additional authority to a Bureau Director beyond that stated in these rules.
- C.** Authorize the awarding of grants not to exceed \$5,000 when the proposed grant is included within the current fiscal year budget. Amendments to grants that increase the grant amount may occur only when the additional amount is included within the current fiscal year budget or as otherwise adopted by the City Council by ordinance.
- D.** Award, execute, amend, and terminate Intergovernmental Agreements (IGA) whenever the IGA amount is less than \$50,000 unless the IGA creates a new government body.
- E.** Execute nondisclosure agreements (other than those set forth in PCC 3.15.090) between the City and vendors in order for the Bureau to review proprietary, trade secret and confidential information on products, services and technologies that are, or might be, considered for use by the Bureau. A nondisclosure agreement is one that prohibits the release of proprietary, trade secret or confidential information, whether held by the City or the vendor, and does not include any monetary consideration. Non-disclosure agreements must be approved as to form by the City Attorney's Office.
- F.** Execute data grant agreements (other than those set forth in PCC 3.15.090) between the City and grantees in order for the Bureau to share Bureau data. A data grant agreement is one in which the City will grant the use of pertinent City data to other agencies, organizations or individuals for research projects or projects performed under Contract with the City. Data grant agreements may include monetary consideration to the City. Data grant agreements must be approved as to form by the City Attorney's Office.
- G.** Execute intellectual property license agreements between the City and third parties for the sale, license or permission to use City intellectual property, as managed by the Bureau. Develop, adopt and maintain any Bureau policies related to the use of the Bureau's intellectual property, including the maintenance, protection and enforcement of the Bureau's rights in their intellectual property. Intellectual

property license agreements must be approved as to form by the City Attorney's Office.

**5.33.065 Authority for Stormwater Improvements.**

(Added by Ordinance No. 184403; amended by Ordinance No. 189878, effective March 4, 2020.) The Director of the Bureau of Environmental Services is authorized to execute Contracts for stormwater improvements not to exceed \$500,000 for stormwater management improvement projects on private property when such projects are authorized as a Special Procurement. The Director of the Bureau of Environmental Services is also authorized to execute amendments to these agreements, provided the amendments do not cause the contract amount to exceed \$625,000.

**5.33.070 Purchasing Goods, Services and Public Improvements from City Employees.**

(Amended by Ordinance Nos. 181547, 183445, 185898, 187373 and 189878, effective March 4, 2020.)

- A. Purchasing from City Employees. The Chief Procurement Officer, City Official or City employee shall not make any Procurements from any City employee, or any business with which a City employee is associated, except as follows:
  - 1. When the purchase is expressly authorized by ordinance; or
  - 2. During a state of Emergency as provided by Chapters 15.04 and 15.08; and when approved in Writing by the Mayor, or the person performing the Mayor's duties, under those Chapters.
- B. "Business with which a City employee is associated" means any business in which the City employee is a director, officer or owner.
- C. In any situation in which the Chief Procurement Officer believes that a purchase would cause an appearance of impropriety, regardless of whether the purchase is authorized by this or any other code provision, the Chief Procurement Officer may condition the proposed purchase on approval by Council.

**5.33.075 Affirmative Action.**

(Amended by Ordinance Nos. 184403, 187974 and 189878, effective March 4, 2020.)

- A. Pursuant to ORS 279A.100, the City may limit competition for Contracts for Goods and Services, or on other Contracts with an estimated cost of \$150,000 or less to carry out affirmative action policies, in accordance with policies and procedures established by the City.
  - 1. COBID firms Direct Contracting: The City may directly enter into Contracts with COBID firms which have been certified by the State of Oregon and are current in their certification at the time of Contract Award,

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without a competitive solicitation process. Each City bureau may have only one active Contract awarded to a COBID firm for a specific service or professional discipline using this procurement authority. The Chief Procurement Officer may make situational exceptions to the contract limitation.

- B.** Pursuant to ORS 279A.105, the City may require a Contractor or Consultant to Subcontract some part of a Contract to, or to obtain materials to be used in performing the Contract from:
- 1.** A business enterprise that is certified under ORS 200.055 as an emerging small business; or
  - 2.** A business enterprise that is:
    - a.** Certified under ORS 200.055 as an emerging small business; and
    - b.** Is located in or draws its workforce from economically distressed areas, as designated by the Oregon Economic and Community Development Department (OECDD); or
    - c.** Owned or controlled by a disabled veteran, as defined in ORS 408.225.
- C.** A Subcontractor certified under ORS 200.055 as an emerging small business is located in or draws its workforce from economically distressed areas if:
- 1.** Its principal place of business is located in an area designated as economically distressed by the OECDD pursuant to administrative rules adopted by the OECDD; or
  - 2.** The Contractor certifies in Writing to the City that a substantial number of the Subcontractor's employees or Subcontractors that will manufacture the goods or complete the services under the Contract reside in an area designated as economically distressed by the OECDD pursuant to administrative rules adopted by OECDD. For the purposes of making the foregoing determination, the City shall determine in each particular instance what proportion of a Contractor's Subcontractor's employees or Subcontractors constitute a substantial number.
  - 3.** The City shall include in each Solicitation Document a requirement that Offerors certify in their Offers in a form prescribed by the City, that the Offeror has not and will not discriminate against a Subcontractor in the Awarding of a subcontract because the Subcontractor is a minority, women or emerging small business enterprise certified under ORS 200.055.

- D. The City may sanction a Person from consideration of Award of the City's Contracts under ORS 200.065 or ORS 200.075 in accordance with these rules.

**5.33.076 Equal Employment Opportunity.**

(Added by Ordinance No. 187373, effective October 14, 2015.)

- A. It is unlawful to discriminate on the basis of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation or source of income in programs, activities, services, benefits, and employment whether carried out by the City of Portland, directly or through a contractor or any other entity with whom the City of Portland arranges to carry out its programs and activities except as allowed by federal law, rules and regulations.
- B. Any person, vendor, contractor, or entity of any type must be registered with the City of Portland as an EEO Employer in order to be eligible to be awarded any Contract.
- C. Procurement Services has the authority to adopt rules, establish standards and procedures it deems necessary to effectively carry out this program.
- D. Contractors and Subcontractors shall provide all information requested by the City to assist it in performing its duties.
- E. If the City receives a complaint filed by any person or entity that alleges prohibited discrimination by a Contractor or Subcontractor, or when information comes into its possession indicating that a Contractor or Subcontractor may have engaged in prohibited discrimination, the City may conduct an investigation to determine whether the complaint or the information is correct.

**5.33.077 Equal Benefits.**

(Added by Ordinance No. 187373, effective October 14, 2015.)

- A. No contractor on a City Contract shall discriminate by policy or practice in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse, subject to the following exceptions:
- B. Procurement Services has the authority to adopt rules, establish standards and procedures it deems necessary to effectively carry out this program in a manner, but not limited to the following:
  - 1. Examine contractor's benefit programs;
  - 2. Allow for remedial action after a finding of non-compliance;
  - 3. Determine and impose appropriate sanctions or remedies by contractors including, but are not limited to:

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- a. Disqualification of the contractor from bidding on or being awarded a City Contract for a period of up to 3 years; and
  - b. Contractual remedies, including, but not limited to, termination of the Contract.
  - c. Impose other appropriate contractual and civil remedies and sanctions for violations.
4. Impose other appropriate contractual and civil remedies and sanctions for violations.
- C. The City shall not execute or award a Contract with a contractor unless such contractor has agreed not to discriminate in the provision of employee benefits as provided for in this Chapter.

**5.33.080 Sustainable Procurement.**

(Replaced by Ordinance No. 189878, effective March 4, 2020.)

- A. Sustainable Procurement Policy. Under the direction of the Chief Procurement Officer, Procurement Services shall develop and maintain a Sustainable Procurement Policy that directs action to understand and take responsibility for the environmental, social, and economic impacts of City Procurement decisions using a Life Cycle perspective. All City bureaus and offices shall comply with the Sustainable Procurement Policy and include the Sustainable Procurement Policy directives and best practices in their Procurement planning and decisions.
- B. Consumption Reduction. As part of the City's Sustainable Procurement commitment, City bureaus and offices shall strive to reduce consumption by using strategies such as, but not limited to, the following:
  1. Fully assessing the need;
  2. Reusing, repairing, and repurposing goods and materials on hand;
  3. Purchasing durable goods and materials;
  4. Purchasing goods with minimal packaging;
  5. Utilizing manufacturer leasing and take-back programs;
  6. Purchasing reusable, repairable, and recyclable goods and materials;
  7. Investing in technologies and processes that facilitate reuse, consumption reduction, or lean inventories.

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- C. Life Cycle Costing. As part of the City’s commitment to understanding and taking responsibility for the environmental, social, and economic impacts of City Procurement decisions, whenever feasible City bureaus and offices shall utilize Life Cycle costing methods to determine the full cost of a product, service, or design, and factor these costs into Procurement decisions and Contract award criteria. This includes factoring in the social cost of carbon and similar methodologies that monetize the human health, social, and environmental impacts of the City’s Procurement decisions.
- D. Use of Product or Service Sustainability Standards or Labels.
1. City bureaus and offices shall utilize, as applicable, reputable third-party environmental and/or social product and/or service standards (“sustainability standards”) when specifying or procuring Goods or Services. Reputable sustainability standards are those that:
    - a. Have been developed by a third-party through a public, transparent, and broad stakeholder process;
    - b. The standard criteria are relevant and represent leadership in the applicable issue areas for the covered Goods or Services; preferably addressing multiple environmental or social impacts throughout the product or service Life Cycle.
  2. City bureaus and offices shall utilize, as applicable, reputable third-party environmental and/or social product and/or service labels (“sustainability labels”) when specifying or procuring Goods or Services. Reputable sustainability labels are those:
    - a. That represent product or service compliance to a reputable, third-party sustainability standard;
    - b. Where product or service compliance to the standard is verified by an impartial third-party;
    - c. Where the label is awarded by an impartial third-party;

That satisfy the standards for sustainability certification and label programs developed by the International Organization for Standardization or other recognized standards-setting or accreditation organizations.

**5.33.085 Preference for Goods Fabricated or Processed Within State or Services Performed Within State.**

(Added by Ordinance No. 185898; amended by Ordinance No. 189878, effective March 4, 2020.) Notwithstanding provisions of law requiring the City to award a contract to the

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lowest responsible bidder or best proposer or provider of a quotation, a contracting agency that uses public funds to procure goods or services for a public use under ORS Chapter 279B may give preference to procuring goods that are fabricated or processed entirely within this state, or services that are performed entirely within this state.

- A. If the goods or services cost is not more than 10 percent more than goods that are not fabricated or processed entirely within this state a preference may be given. If more than one bidder or proposer qualifies for the preference described in this Subsection, the City may give a further preference to a qualifying bidder or proposer that resides in or is headquartered in this state.
- B. The City may set a higher percentage than the percentage set forth above if the City, in a written determination to support the order, finds good cause to set the higher percentage and explains the City's reasons and evidence for the finding.
- C. This Section does not apply to emergency work, minor alterations, ordinary repairs or maintenance work for public improvements or to other construction contracts as described in ORS 279C.

**5.33.090 Use of Price Agreements.**

(Amended by Ordinance Nos. 183445, 187373 and 189878, effective March 4, 2020.) If the City Awards a Price Agreement that will allow the City to purchase whatever quantity it needs from a Contractor, then City Bureaus shall make their purchases from that Contract unless the Chief Procurement Officer grants an exemption to that requirement. Price Agreements resulting from a participating agreement utilizing a cooperative agreement through another agency are exempt from this requirement.

**5.33.100 Overview of Source Selection and Contractor Selection.**

(Amended by Ordinance Nos. 183445, 185898 and 189878, effective March 4, 2020.)

- A. The City shall Award a Contract for Goods and Services covered by this Code using any method authorized by State law or City Code. Such different methods are called methods of "source selection." Source selection methods include Cooperative Procurements, Competitive Sealed Bidding, Competitive Sealed Proposals and small, intermediate, sole source, Emergency and Special Procurements.
- B. State law requires the City to use the services of Qualified Rehabilitation Facilities (QRF's) in certain instances. When required, the City shall use a QRF pursuant to Section 5.33.110 before proceeding with a purchase through other methods of source selection.
- C. Once the appropriate source selection method has been chosen, the City may consider the best process of selecting a Contractor within the source selection method it has chosen.



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- D.** The City may employ methods of Contractor selection for the Procurement of Goods and Services using any process authorized by State law, including multi-tiered processes as set forth in Subsection 5.33.210 B.6.d., including, but not limited to:
1. An Award or Awards based solely on the ranking of Proposals;
  2. Discussions leading to best and final Offers in which the City may not disclose private discussions leading to best and final Offers;
  3. Discussions leading to best and final Offers, in which the City may not disclose information derived from Proposals submitted by competing Proposers;
  4. Serial negotiations, beginning with the highest ranked Proposer;
  5. Competitive simultaneous negotiations;
  6. Multiple-tiered competition designed to identify, at each level, a class of Proposers that fall within a Competitive Range or to otherwise eliminate from consideration a class of lower ranked Proposers;
  7. A multi-step Request for Proposals requesting the submission of un-priced technical submittals, and then later issuing a Request for Proposals limited to the Proposers whose technical submittals the City had determined to be qualified under the criteria set forth in the initial Request for Proposals; or
  8. Any combination of methods described in Subsections 5.33.100 D.1. - 7. or as otherwise adopted by the City Council by ordinance.
- E.** The methods of Contractor selection identified in Subsection 5.33.100 D. shall conform to the procedures identified in these rules.
- F.** The Chief Procurement Officer is authorized, but not required, to waive any nonconformity with the rules of Contractor selection if the Chief Procurement Officer determines that the defect was minor and likely would not have had an effect on the outcome of the selection process.

**5.33.105 Feasibility and Cost Analysis.**

(Added by Ordinance No. 183445; amended by Ordinance No. 185065, effective January 1, 2012.)

- A.** For purposes of this rule, the term “bureau” means a department, bureau, office or other subdivision of the City of Portland.

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- B.** Before conducting a procurement that pertains exclusively for services other than professional services, and which is estimated to exceed \$250,000, the bureau shall conduct an analysis to determine if it is feasible to use the City's own personnel or resources to perform the same services. The City may determine that it is not feasible if:
- 1.** The bureau needing the services lacks the specialized capabilities, experience or technical or other expertise necessary to perform the services. In making this finding, the City shall compare the bureau's capability, experience or expertise in the field most closely involved in performing the services with a potential contractor's capability, experience or expertise in the same or a similar field; or
  - 2.** Special circumstances require the bureau to procure the services by contract. Special circumstances may include, but are not limited to, circumstances in which:
    - a.** The terms under which the bureau receives a grant or other funds for use in a procurement require the bureau to obtain services through an independent contractor;
    - b.** Other state or federal law requires the bureau to procure services through an independent contractor;
    - c.** The procurement is for services that are incidental to a contract for purchasing or leasing real or personal property, including service and maintenance agreements for equipment that is leased or rented;
    - d.** The bureau cannot accomplish policy, administrative or legal goals, including but not limited to avoiding conflicts of interest or ensuring independent or unbiased findings in cases when using the bureau's existing personnel or persons the bureau could hire through a regular or ordinary process would not be suitable;
    - e.** The procurement is for services to which the provisions of ORS 279B.080 (emergency procurements) apply;
    - f.** The procurement is for services, the need for which is so urgent, temporary or occasional that attempting to perform the services with the bureau's own personnel or resources would cause a delay that would frustrate the purpose for obtaining the services; or
    - g.** The services the bureau intends to procure will be completed within six months after the date on which the contract for the services is executed.

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- C.** If it is determined it is not feasible to acquire the services with the bureau's own personnel or resources, a written determination shall be made and kept in the City's procurement file. If it is determined it is feasible to acquire the services with the bureau's own personnel or resources, the bureau shall conduct a cost analysis as set forth in Subsections 5.33.105 D. – F. below.
- D.** The bureau shall first estimate the bureau's cost of performing the services, including:
- 1.** Salary or wage and benefit costs for contracting agency employees who are directly involved in performing the services, including employees who inspect, supervise or monitor the performance of the services.
  - 2.** Material costs, including costs for space, energy, transportation, storage, raw and finished materials, equipment and supplies.
  - 3.** Costs incurred in planning for, training for, starting up, implementing, transporting and delivering the services and costs related to stopping and dismantling a project or operation because the contracting agency intends to procure a limited quantity of services or procure the services within a defined or limited period of time.
  - 4.** Miscellaneous costs related to performing the services. The contracting agency may not include in the cost analysis the contracting agency's indirect overhead costs for existing salaries or wages and benefits for administrators or for rent, equipment, utilities and materials except to the extent that the costs are attributable solely to performing the services and would not exist unless the contracting agency performs the services.
- E.** After estimating the bureau's costs, the bureau shall estimate the cost a potential contractor would incur in performing the services. The bureau may estimate a contractor's potential costs by any reasonable means, including, but not limited to, past bids or current information provided by contractors performing the same or similar services. In the absence of information that can be reasonably and simply obtained without the expenditure of undue time and expense, a bureau may employ employing percentage markups for overhead and profit. No matter the method, the bureau's estimate should ensure it captures the following costs:
- 1.** Average or actual salary or wage and benefit costs for contractors and employees who:
    - a.** Work in the industry or business most closely involved in performing the services that the contracting agency intends to procure; and



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intends to conduct a procurement, the bureau lacks personnel and resources that are necessary to perform the services within the time in which the services are required. If the contracting agency conducts a procurement under the conditions described in this paragraph, the contracting agency shall:

- a. Keep a record of the cost analysis and findings that the contracting agency makes for each procurement the contracting agency conducts under this section, along with the basis for the contracting agency's decision to proceed with the procurement; and
- b. Collect and provide copies of the records described in Subsection 5.33.105 F.2.a. each calendar quarter to the City Council.

**5.33.110 Qualified Rehabilitation Facilities.**

(Amended by Ordinance Nos. 185898 and 189878, effective March 4, 2020.)

- A. Policy: It is the policy of the City to encourage and assist Disabled Individuals to achieve maximum personal independence through useful and productive gainful employment by assuring an expanded and constant market for sheltered workshop and activity center products and services, thereby enhancing their dignity and capacity for self-support and minimizing their dependence on welfare and need for costly institutionalization. An essential element of this policy is to support sheltered employment to the fullest extent provided by law by contracting for needed Goods and services available from QRFs. The City shall identify contracting opportunities within the organization and Award appropriate Contracts to QRFs in accordance with this rule.
- B. Procurements from QRFs
  1. When the City intends to procure a product or service that is listed on the Procurement List, it shall procure that product or service, at the Price determined by the State Procurement Office, from a Qualified Rehabilitation Facility if the product or service is of Specifications appropriate to the City's Procurement needs and is available within the time required by the City.
  2. The City shall enter into and renew QRF Contracts only for the specific products or services that are on the Procurement List.
  3. If a QRF is removed from the Procurement List, the City shall not Award or renew a QRF Contract, and the removal from the Procurement List shall constitute sufficient grounds for the City to terminate any outstanding QRF Contract.

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4. No placement of a product or service on the Procurement List shall act to displace a Contractor under an existing Contract with the City for the same product or service prior to the expiration or other termination of the Contractor's Contract with the City. However, where a product or service is on the Procurement List, no existing Contract shall be renewed for such a product or service.
5. If a QRF submits a Competitive Bid, Proposal, price quotation or other Offer in a competitive Procurement for a Contract, then regardless of whether the Offer was accepted, that QRF may not, at any time during the initial term of the Contract for which the QRF submitted a Bid, Proposal or Offer, make any claim to the City that the product or service that was the subject of the Offer is on the Procurement List. If, during the Solicitation process, a QRF claims the product or service that is the subject of the Procurement is on the Procurement List, then, if the product or service is determined to have been on the Procurement List at the time the Solicitation Document was issued, the Solicitation process shall be terminated so long as a Contract has not been fully executed at the time the claim is made.

**C. Determination of Price/Changes to QRF Contracts**

1. When a product or service on the Procurement List is offered by more than one QRF, the City may purchase the required product or service from any QRF without competition between QRFs.
2. The City may use the formal selection procedure similar to that described in Section 5.33.050 to select a QRF to provide a service on the Procurement list, provided that:
  - a. The Solicitation shall not request any information concerning price and price shall not be a consideration in making the Award.
  - b. The Solicitation shall not be advertised.
  - c. Notice of the Solicitation may be given to those QRFs offering the service on the Procurement List.
  - d. After selection of a QRF the price will be determined in accordance with Subsection 5.33.110 D.3.
3. Price.
  - a. Price for products or services where the Price is listed. For products or services on the Procurement List where the Price is listed, the Contract shall provide that the City will pay the Price that is listed.

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- b.** Price for services where the Price is not listed. For services for which no Price is listed on Procurement List, the City shall proceed as follows:
- (1)** The City shall request that the QRF submit its proposed Price to the City based on the volume or Scope of the Work and Specifications provided by the City as prescribed in the proposed Contract between the QRF and the City. For janitorial and security services where a Fair Wage is required to be paid, the Specifications shall state the wage required to be paid.
  - (2)** In submitting its proposed Price to the City, the City shall require the QRF to make full disclosure of known costs. The disclosure must include documentation, on a form prescribed by the State Procurement Office, that the costs proposed will result in a Price that will permit the QRF to recover the amounts prescribed in ORS 279.845(1)(a). The City shall require that an authorized officer of the QRF certify that the costs claimed are, to the best of the officer's knowledge, reasonable and adequate, and that the proposed Price will permit the QRF to recover the amounts prescribed in ORS 279.845(1)(a).
  - (3)** If the QRF and the City agree on the terms and conditions of a proposed Contract and the price for the services to be provided under the proposed Contract, the Department shall present the proposed Contract (including the agreed Price) to the State Procurement Office for review and approval of the Price. If the QRF and the City cannot agree on the price, the parties shall present the issue of price to the State Procurement Office for determination.
  - (4)** The City shall not execute or implement any Contract under the program created by ORS 279.835 to 279.850 until the State Procurement Office has transmitted notice of the Price approved determined by the State Procurement Office to the City and the QRF.
- c.** Re-determinations of Price. The Price established by the State Procurement Office shall apply for the initial term or period of the Contract unless otherwise approved by the State Procurement Office. The State Procurement Office may re-determine a Price at the request of a QRF or City, or at the discretion of the State Procurement Office. Until the State Procurement Office approves a

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new Price, the QRF shall continue to provide, at the established Price, the service or product in accordance with the Scope of Work that was the basis for establishing the existing Price.

- d.** The City shall not pay or agree to pay a QRF any amount other than the Price approved by the State Procurement Office. Any Price established by the State Procurement Office for a product or service shall remain in effect until the State Procurement Office approves a new Price.
  
- D.** The City shall not make material changes (changes that affect the cost of providing the products or services in more than a negligible manner) to the Specifications of a QRF Contract under ORS 279.835 to 279.850 unless the changes are in Writing and have been submitted to the State Procurement Office for a re-determination of Price. If the City wishes to make a material change to the Specifications from the most recent Solicitation for the product or service, the City shall notify the QRF in Writing of the specific changes in the Scope of Work or other conditions which will be required during the new Contract period. No agreement making a material change in the Specifications shall be executed until State Procurement Office re-determines the Price.

**5.33.120 Sole-Source Procurements.**

(Amended by Ordinance Nos. 183445 and 189878, effective March 4, 2020.)

- A.** Generally. The City may Award a Contract without competition as a Sole Source Procurement if the Chief Procurement Officer or Council, depending on the amount of the Contract, makes a Written finding that:
  - 1.** Efficient utilization of existing Goods or Services requires the acquisition of compatible Goods or Services; or
  - 2.** The Goods or Services required for the exchange of software or data with other public or private agencies are available from only one source; or
  - 3.** The Goods or Services are for use in a pilot or an experimental project; or
  - 4.** Any other findings that support the conclusion that the Goods or Services are available from only one source.
  
- B.** Negotiation with a sole source Contractor is desirable. The City is entitled to negotiate with any sole source Contractor to obtain a favorable price, terms or conditions.
  
- C.** Public Notice. The City shall give notice of the determination that the Goods or Services or class of Goods or Services are available from only one source when the Contract is estimated to be greater than \$50,000 by publishing a notice on



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Procurement Services' website at least seven (7) Days before the Contract is Awarded.

**5.33.130 Emergency Procurements.**

(Amended by Ordinance Nos. 181547, 183445 and 189878, effective March 4, 2020.)

- A.** The City may Award a Contract as an Emergency Procurement without the use of competitive sealed Bidding or competitive sealed Proposals as authorized by ORS 279B.050(2) when the requirements of ORS 279B.080 and this rule are met.
- B.** The Council, or person authorizing the Emergency Procurement, shall document the nature of the Emergency and describe the method used for the selection of the particular Contractor. The City shall encourage competition for Emergency Procurements to the extent reasonable under the circumstances.
- C.** The Chief Procurement Officer may award, execute, amend, and terminate an Emergency Procurement Contract with authorization from the Commissioner-in-Charge of the City Office, Bureau or Department.
- D.** If the Chief Procurement Officer or person to whom the powers of the Chief Procurement Officer have been delegated is unable to perform the duties of the Chief Procurement Officer position, the director of a City Office, Bureau or Department may award, execute, amend, and terminate an Emergency Procurement Contract with authorization from the Commissioner-in-Charge of the City Office, Bureau or Department.
- E.** For all Emergency Procurement Contracts exceeding \$150,000, the Commissioner-in-Charge shall immediately prepare an ordinance for City Council approval of the Emergency Procurement Contract at its next regularly scheduled session or as soon as possible thereafter.
- F.** If City Council adopts the ordinance, the City will pay for the Work required by the Emergency Procurement Contract. If City Council disapproves the ordinance, the City only will pay for Work performed prior to the date that City Council considered the ordinance for approval. If presentation of the ordinance to City Council is delayed, the City will pay for Work performed prior to the time when the ordinance first was presented to City Council.
- G.** All documentation of Emergency Procurements shall be sent to the Chief Procurement Officer for record keeping purposes.
- H.** Emergency Procurement Contracts, whether or not signed by the Contractor, shall be deemed to contain a termination for convenience clause permitting the City to immediately terminate the Contract at its discretion and, unless the Contract was void, the City may pay the Contractor only for Work performed prior to the date of

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termination and the Contractor's unavoidable costs incurred as a result of the termination. The City shall not be liable for Contractor's anticipated lost profits or consequential damages as a result of the termination.

- I. For an emergency procurement of construction services that are not public improvements, the City official authorized to execute an Emergency Procurement Contract under this section shall ensure competition for a contract for the emergency work that is reasonable and appropriate under the emergency circumstances. In conducting the procurement, the City official authorized to execute an Emergency Procurement Contract under this section shall set a solicitation time period that the City determines to be reasonable under the emergency circumstances and may issue written or oral requests for offers or make direct appointments without competition in case of extreme necessity.

**5.33.135 Declaration of State of Emergency or Disaster.**

(Added by Ordinance No. 181547; amended by Ordinance Nos. 183345 and 189878, effective March 4, 2020.)

- A. When the Mayor or person designated to perform the duties of office of the Mayor ("Designee"), proclaims a State of Emergency or Disaster the Mayor or Designee may, by direct appointment, Award Emergency Procurement Contracts for the acquisition of goods, services, construction services and public improvements for the purpose of responding to the State of Emergency or Disaster. This section does not eliminate the power of any individual otherwise authorized to award or execute contracts under other portions of the City Code.
- B. The Proclamation of a Disaster or State of Emergency permits the Mayor to execute, amend, and terminate Emergency Procurement Contracts. When a Proclamation of a State of Emergency or Disaster is issued, the City hereby waives the requirement of furnishing sufficient performance and payment bonds for any public improvement contracts or construction services contracts awarded pursuant to this Section when such bonds otherwise would be legally required. Nonetheless, any person authorized to award a contract may make a request for such bonds whenever it appears to be appropriate.
- C. The Mayor or Designee may delegate the authority to award contracts, in whole or in part, to any appropriate person, to responds to the State of Emergency or Disaster.
- D. A written contract is not required, but documentation of contracts awarded pursuant to this section shall be kept to the extent practicable under the circumstances.
- E. Emergency Procurement Contracts, whether or not signed by the Contractor, shall be deemed to contain a termination for convenience clause permitting the City to immediately terminate the Contract at its discretion and, unless the Contract was void, the City may pay the Contractor only for Work performed prior to the date of

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termination and the Contractor's unavoidable costs incurred as a result of the termination. The City shall not be liable for Contractor's anticipated lost profits or consequential damages as a result of the termination.

- F.** All documentation of Emergency Procurement Contracts shall be sent to the Chief Procurement Officer for record keeping purposes.
- G.** All Emergency Procurement Contracts Awarded when there was no Emergency or reasonable perception of Emergency are void unless the Emergency Procurement Contract was otherwise valid under another portion of the City's Procurement Rules.
- H.** If an Emergency Procurement Contract is not in writing, the City shall execute a Written Contract with the Contractor as soon as possible thereafter as circumstances permit.

**5.33.140 Cooperative Purchasing.**

(Amended by Ordinance Nos. 181547, 185898 and 189878, effective March 4, 2020.)

- A.** The City may participate in, sponsor, conduct or administer Joint Cooperative Procurements to establish Contracts or Price Agreements for Goods or Services, as defined in these rules, that use source selection methods substantially equivalent to those set forth in Sections 5.33.200, 5.33.210 or 5.33.220.
- B.** The City may participate in, sponsor, conduct or administer Permissive Cooperative Procurements to establish Contracts or Price Agreements for the acquisition of Goods or Services, as defined in these rules, that use source selection methods substantially equivalent to those set forth in Sections 5.33.200 or 5.33.210.
- C.** The City may participate in, sponsor, conduct or administer Interstate Cooperative Procurements to establish Contracts or Price Agreements for the acquisition of Goods or Services, as defined in these rules, that use source selection methods substantially equivalent to those set forth in Sections 5.33.200 or 5.33.210.
- D.** A Solicitation and Award process uses source selection methods substantially equivalent to those identified in Sections 5.33.200, 5.33.210 or 5.33.220 if the Solicitation and Award process:
  - 1.** Calls for Award of a Contract on the basis of a lowest Responsible Bidder or a lowest and best Bidder determination in the case of Competitive Bids, on the basis of a determination of the Proposer whose Proposal is most Advantageous based on evaluation factors set forth in the Request for Proposals in the case of competitive Proposals;

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2. Does not permit the application of any geographic preference that is more favorable to Bidders or Proposers who reside in the jurisdiction or locality favored by the preference than the preferences provided in ORS 279A.120(2); and
  3. Uses reasonably clear and precise Specifications that promote suitability for the purposes intended and that reasonably encourage competition.
- E. The City shall determine, in Writing, whether the Solicitation and Award process for an Original Contract arising out of a Cooperative Procurement is substantially equivalent to those identified in Sections 5.33.200, 5.33.210 or 5.33.220 in accordance with Section 5.33.140.
- F. Protests. Protests regarding the use of all types of Cooperative Procurements shall be governed by the applicable provisions of Section 5.33.700 et seq.

**5.33.145 Rules on all types of Cooperative Procurements.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A. If the City is the Administering Contracting Agency, then:
1. It may charge a fair and reasonable fee to purchasing Contract agencies that represent the excess costs of administering the Contract in light of the Purchasing Contracting Agencies use of that Contract; and
  2. Determine whether the purchasing Contract agency must enter into a Written agreement with it.
- B. If the City is a Purchasing Contracting Agency it is authorized to pay a fee to the Administering Contracting Agency that the Chief Procurement Officer determines is fair and reasonable in light of all the circumstances surrounding the Procurement, including the savings that may be obtained if a Cooperative Procurement is used, the cost of the Procurement in relationship to the fee, and other factors as may be considered. If a fee is paid, it will be borne by the Bureau or portion of the City on whose behalf the Procurement is being made.
- C. Cooperative procurements are subject to the requirements of Section 5.33.105 in regard to service contracts in excess of \$250,000.

**5.33.150 Joint Cooperative Procurements.**

(Amended by Ordinance Nos. 181547 and 185898, effective February 20, 2013.)

- A. A Joint Cooperative Procurement is a Cooperative Procurement in which the governmental bodies or the Cooperative Procurement Group and the bodies' or Group's Contract requirements or estimated Contract requirements for Price Agreements are identified in the Solicitation Document.

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- B.** A Joint Cooperative Procurement is valid only if:
1. The conditions of Subsection 5.33.140 B. are met;
  2. The Administering Contracting Agency's Solicitation and the Original Contract or Price Agreement identifies the Cooperative Procurement group or each participating Purchasing Contracting Agency and specifies the estimated Contract requirements; and
  3. No material change is made in the terms, conditions or prices of the Contract between the Contractor and the Purchasing Contracting Agency from the terms, conditions and prices of the Original Contract between the Contractor and the Administering Contracting Agency.
- C.** A Joint Cooperative Procurement may not be a Permissive Cooperative Procurement.

**5.33.160 Permissive Cooperative Procurements.**

(Amended by Ordinance Nos. 185065, 185898 and 187373, effective October 14, 2015.)

- A.** A Permissive Cooperative Procurement is a Cooperative Procurement in which the Purchasing Contracting Agencies are not identified in the Solicitation Document.
- B.** The City may enter into a Permissive Cooperative Procurement if:
1. The conditions of Subsection 5.33.140 B. are met;
  2. The Administering Contracting Agency's Solicitation and Award process for the original Contract allows other governmental bodies to establish contracts or price agreements under the terms, conditions and prices of the original contract;
  3. The Contractor agrees to extend the terms, conditions and prices of the original contract to the Purchasing Contractor Agency; and
  4. No material change is made in the terms, conditions or prices of the contract or price agreement between the Contractor the Purchasing Contracting Agency from the terms, conditions and prices of the original contract between the Contractor and the Administering Contracting Agency.
- C.** If the City wishes to enter into a Contract or Price Agreement arising out of a Permissive Cooperative Procurement it must publish notice of its intent to do so if it is estimated that the City will spend in excess of \$250,000, on Goods and Services acquired under the Contract or Price Agreement.

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- D.** For purposes of determining whether the City must give notice of intent to establish a Contract through a Permissive Cooperative Procurement, as required by ORS 279A.215(2)(a), the estimated amount of procurement will exceed \$250,000 if:
- 1.** The City's Contract or Price Agreement arising out of the Permissive Cooperative Procurement expressly provides that the City will make payments over the term of the Contract or Price Agreement that will, in aggregate, exceed \$250,000, whether or not the total amount or value of the payments is expressly stated;
  - 2.** The City's Contract or Price Agreement arising out of the Permissive Cooperative Procurement expressly provides for payment, whether in a fixed amount or up to a stated maximum amount, that exceeds \$250,000; or
  - 3.** The City reasonably contemplates, based on historical or other data available to the Purchasing Contracting Agency, that the total payments it will make for Goods or Services under the Contract or Price Agreement will, in aggregate, exceed \$250,000 over the anticipated duration of the Contract or Price Agreement.
- E.** The notice of intent required by this rule shall contain the following information:
- 1.** A description of the Procurement;
  - 2.** An estimated amount of the Procurement;
  - 3.** The name of the Administering Contracting Agency; and
  - 4.** A time, place and date by which comments must be submitted to the City regarding the intent to establish a Contract or Price Agreement through a Permissive Cooperative Procurement;
- F.** Time: The City shall advertise the notice in the same manner as provided in Subsection 5.33.300 A. The City shall give the notice required by this rule no fewer than seven (7) Days before the deadline for submitting comments regarding its intention to establish a Contract or Price Agreement through a Permissive Cooperative Procurement.
- G.** An Administering Contracting Agency that intends to establish a Contract or Price Agreement arising out of the Permissive Cooperative Procurement it administers may satisfy the notice requirements set forth in ORS 279A.215(2)(a) by including the information required by Subsection 5.33.160 D., in the Solicitation Document related to the Permissive Cooperative Procurement, and including instructions in the Solicitation Document to potential Offerors describing how they may submit comments in response to the Administering Contracting Agency's intent to establish a Contract or Price Agreement through the Permissive Cooperative

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Procurement. The content and timing of such notice shall comply in all respects with ORS 279A.215(2), ORS 279A.215(3) and these Rules.

- H.** If the City receives comments on the intent to establish a Contract or Price Agreement through a Permissive Cooperative Procurement, the City shall make a Written determination that establishing a Contract or Price Agreement is in the best interest of the City before executing the Contract or using the Price Agreement.

**5.33.170 Interstate Cooperative Procurements.**

(Amended by Ordinance Nos. 181547 and 185898, effective February 20, 2013.)

- A.** An Interstate Cooperative Procurement is a Permissive Cooperative Procurement in which the Administering Contracting Agency is a governmental body, domestic or foreign, that is authorized under the governmental body's laws, rule or regulations to enter into Contracts and in which one or more of the participating governmental bodies are located outside the State of Oregon.
- B.** The City may procure Goods and Services through an Interstate Cooperative Procurement if:
- 1.** The Conditions of Subsection 5.33.140 B. are met;
  - 2.** The Administering Contracting Agency's Solicitation and the Original Contract allows other governmental bodies to establish Contracts or Price Agreements under the terms, conditions and prices of the Original Contract; and
  - 3.** The Administering Contracting Agency permits the Contractor to extend the use of the terms, conditions and prices of the Original Contract to the Purchasing Contracting Agency; and
  - 4.** The City:
    - a.** was listed in the Solicitation of the Administering Contract Agency as a party that may establish Contracts or Price Agreements under the terms, conditions and prices of the Original Contract and the Solicitation was advertised in Oregon, or
    - b.** is a member of a Cooperative Procurement Group and the Group was listed in the Solicitation of the Administering Contracting Agency as a party that may establish Contracts or Price Agreements under the terms, conditions and prices of the Original Contract and the Solicitation was advertised in Oregon; or
    - c.** publishes a Notice of intent to establish a Contract or Price Agreement in the manner required by Subsection 5.33.170 C. below.

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- C. Notice of Intent. If the City is required by this rule to publish a notice of intent to establish a Contract or Price Agreement through an Interstate Cooperative Procurement, the notice shall include:
  - 1. A description of the proposed Procurement;
  - 2. An estimated amount of the proposed Procurement;
  - 3. The name of the Administering Contracting Agency; and
  - 4. A time, place and date by which comments must be submitted to the City regarding its intent to establish a Contract or Price Agreement through an Interstate Cooperative Procurement.
- D. The City shall give public notice at least seven (7) Days before the deadline for submission of comments regarding its intent to establish a Contract or Price Agreement through an Interstate Cooperative Procurement.
- E. If the City receives comments within seven (7) Days after publication of its notice, the City shall make a Written determination that establishing a Contract or Price Agreement through an Interstate Cooperative Procurement is in the best interest of the City and provide a copy of the Written determination to any vendor that submitted comments before a Contract or Price Agreement may be established.

**5.33.180 Small Procurements.**

(Amended by Ordinance Nos. 183445 and 187974, effective September 7, 2016.)

- A. For Procurements of Goods and Services not exceeding \$10,000 the City may Award a Contract as a Small Procurement pursuant to ORS 279B.065 and this rule. The City may choose any method of selecting such Contractors, including, but not limited to, offering the Contract to only one firm or conducting a competition for the Contract.
- B. State law prohibits a Procurement from being artificially divided or fragmented so as to constitute a small Procurement under this section.
- C. Notwithstanding any other provisions of the City Code, small Procurements shall not be amended beyond \$10,000 without prior approval of the Chief Procurement Officer before the additional Goods or Services are provided.

**5.33.190 Intermediate Procurements.**

(Amended by Ordinance No. 189878, effective March 4, 2020.)

- A. Generally. For Procurements of Goods and Services not exceeding a Contract Amount of \$150,000, the City may Award a Contract as an Intermediate Procurement pursuant to ORS 279B.070. A Procurement shall not be artificially



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divided or fragmented so as to constitute an intermediate Procurement under this section.

1. Oral Bids: For Procurement of Goods and Services not exceeding \$50,000, the City may Award a Contract after seeking three oral or Written Bids.
  2. Written Bids: For Procurements of Goods or Services anticipated to exceed \$50,000 but not exceeding \$150,000, the City may Award a Contract after seeking three Written Bids.
  3. Written Proposals Only: For Procurements of Goods and Services of any dollar amount not exceeding \$150,000, the City may Award a Contract after seeking three Proposals. All Proposals must be in writing; the City may not seek oral Proposals.
- B.** For all Intermediate Procurements, the City shall seek at least three informally solicited competitive Bids or competitive Proposals from prospective Contractors, and shall keep Written records of the sources of the Bids or Proposals received. If three Bids or Proposals are not reasonably available, the City may proceed with the Procurement but only after making a Written record of the effort made to obtain the Bids or Proposals.
- C.** Negotiations: The City may negotiate with an Offeror to clarify its Bid or Proposal or to effect modifications that will make the Bid or Proposal acceptable or more Advantageous to the City, provided that all Offerors contacted are offered the same opportunity in order to compete on the same basis.

**5.33.200 Competitive Sealed Bidding.**

(Amended by Ordinance Nos. 183445, 185898 and 189878, effective March 4, 2020.)

- A.** The City may procure Goods and Services by Competitive Sealed Bidding as set forth in ORS 279B.055. An Invitation to Bid (ITB) is used to initiate a competitive sealed Bid Solicitation and shall contain the information required by Subsection 5.33.200 B. Public Notice of the Competitive Sealed Bidding Solicitation shall be provided as required by Section 5.33.300.
- B.** Invitation to Bid. The ITB shall include the following:
1. General Information.
    - a. A time and date by which the Bids must be received as well as a location at which the Bids must be submitted;
    - b. The name and title of the person designated for the receipt of Bids and the person designated by the City as the contact person for the Procurement, if different;

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- c.** A Procurement description;
- d.** A time, date, and place that Prequalification applications, if any, must be filed and the classes of Work, if any, for which Bidders must be prequalified in accordance with ORS 279B.100 and Section 5.33.510;
- e.** A statement that the City may cancel the Procurement or reject any or all Bids in accordance with ORS 279B.100 and Section 5.33.645;
- f.** A statement that requires the Contractor or Subcontractor to possess an asbestos abatement license, if required under ORS 468A.710;
- g.** All Contractual terms and conditions applicable to the Procurement;
- h.** Notice of any pre-Offer conference as follows:
  - (1)** The time, date and location of any pre-Offer conference; and
  - (2)** Whether attendance at the conference will be mandatory or voluntary; and
  - (3)** That statements made by the City’s representatives at the conference or elsewhere are not binding upon the City unless confirmed by Written Addendum;
- i.** The form and submission of Offers and any other special information, e.g., whether Offers may be submitted by Electronic means;
- j.** The scheduled Closing;
- k.** The location where the Specifications for the Goods or Services may be reviewed;
- l.** A statement that each Bidder to an ITB must identify whether the Bidder is a “Resident Bidder,” as defined in Subsection 5.33.010 A. 75.;
- m.** Bidder’s certification of nondiscrimination in obtaining required Subcontractors in accordance with ORS 279A.110(4). (See Section 5.33.075); and
- n.** How the City will notify Offerors of Addenda and how the City will make Addenda available. See Section 5.33.430; and



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shall be reasonable estimates based on information the City has available concerning future use.

4. Preference for Goods manufactured from Recycled Materials under Section 5.33.080 and ORS 279A.125;
5. Unless otherwise provided in the Contract, the Contractor shall not assign, sell, dispose of, or transfer rights, nor delegate duties under the Contract, either in whole or in part, without the City's prior Written consent. Unless otherwise agreed by the City in Writing, such consent shall not relieve the Contractor of any obligations under the Contract. Any assignee or transferee shall be considered the agent of the Contractor and be bound to abide by all provisions of the Contract. If the City consents in Writing to an assignment, sale, disposal or transfer of the Contractor's rights or delegation of Contractor's duties, the Contractor and its surety, if any, shall remain liable to the City for complete performance of the Contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless the City otherwise agrees in Writing.
6. All Contractual terms and conditions in the form of Contract provisions the City determines are applicable to the Procurement. As required by state law, the contract terms and conditions must specify the consequences of the Contractor's failure to perform the scope of work or to meet the performance standards established by the resulting Contract. Those consequences may include, but are not limited to:
  - a. The City's reduction or withholding of payment under the Contract;
  - b. The City's right to require the Contractor to perform, at the Contractor's expense, any additional work necessary to perform the statement of work or to meet the performance standards established by the resulting Contract; and
  - c. The City's rights, which the City may assert individually or in combination, to declare a default of the resulting Contract, to terminate the resulting Contract, and to seek damages and other relief available under the resulting Contractor or applicable law.

**5.33.205 Multi-Step Sealed Bidding.**

(Amended by Ordinance Nos. 185065 and 185898, effective February 20, 2013.)

- A. General. The City may use multi-step Competitive Sealed Bidding pursuant to ORS 279B.055(12).
- B. Phased Process. Multi-step Bidding is a phased Procurement process which seeks necessary information or un-priced submittals in phase one combined with regular

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competitive sealed Bidding, inviting Offerors who submitted technically eligible submittals in phase one, to submit competitive sealed price Bids in phase two. The Contract must be Awarded to the lowest Responsible Bidder.

- C.** Public Notice. When the City uses multi-step sealed Bids for Contracts over \$150,000, Public Notice for phase one shall be given in accordance with Section 5.33.300. Public Notice is not required for phase two. However, the City shall give notice of subsequent phases to all Bidders and inform Bidders of the right to protest Addenda issued after the initial Closing pursuant to Section 5.33.430 and inform Bidders excluded from the subsequent phases of the right, if any, to protest their exclusion pursuant to Section 5.33.720.
- D.** Procedures Generally. In addition to the procedures set forth in Sections 5.33.300 through 5.33.340, the City shall use the procedures set forth in this rule for multi-step Bidding and in the Invitation to Bid.
- E.** Procedure for Phase One of Multi-Step Sealed Bidding.

  - 1.** Form. The City shall initiate multi-step sealed Bidding by issuing an Invitation to Bid in the form required for competitive sealed Bids except as provided in this rule. In addition to the requirements of Subsection 5.33.200 B., the multi-step Invitation to Bid must state:

    - a.** That the solicitation is a multi-step sealed Bid Procurement and describe the process the City will use to conduct the Procurement;
    - b.** That the City requests un-priced submittals and that the City will consider priced Bids only in phase two and only from those Bidders whose un-priced submittals are found eligible in phase one;
    - c.** Whether Bidders must submit priced Bids at the same time as un-priced submittals and, if so, that Bidders must submit the priced Bids in a separate sealed envelope; and
    - d.** The criteria to be used in the evaluation of un-priced submittals;
  - 2.** Evaluation. The City shall evaluate un-priced submittals in accordance with the criteria set forth in the Invitation to Bid.
- F.** Revisions to Solicitation Specifications. After Closing of phase one, the City may issue Addenda that modify the Specifications for the Goods or Services being procured or that modify other terms and conditions of the Invitation to Bid. The City shall provide such Addenda to all Bidders who initially submitted un-priced technical Bids. The City may then require Bidders to submit revised un-priced technical Bids.

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**G.** Procedure for Phase Two.

1. After the completion of Phase One, if the City does not cancel the Solicitation, the City shall invite each eligible Bidder to submit a priced Bid.
2. Conduct. Phase Two shall be conducted as any other competitive sealed Bid Procurement except:
  - a. as specifically set forth in this rule or the Invitation to Bid; and
  - b. no public notice need be given of the invitation to submit priced Bids because such notice was previously given.

**5.33.210 Competitive Sealed Proposals, (RFP's).**

(Amended by Ordinance Nos. 183445, 185065, 185898 and 189878, effective March 4, 2020.)

- A.** The City may procure Goods and Services by Competitive Sealed Proposals as set forth in ORS 279B.060 and this rule. The City shall use a Request for Proposal to initiate a competitive sealed Proposal Solicitation. The Request for Proposal must contain the information required by ORS 279B.060(2) and Paragraph B. of this rule. The City shall provide Public Notice of the Competitive Sealed Proposal Solicitation as provided in Section 5.33.300.
- B.** Mandatory provisions in RFP Solicitation Documents. The RFP must include the following:
  1. General Information.
    - a. A time, date and location when the sealed Proposals must be submitted and received;
    - b. The name and title of the person designated for the receipt of Proposals and the person designated by the City as the contact person for the Procurement, if different;
    - c. A Procurement description;
    - d. A time, date, and place that Prequalification applications, if any, must be filed and the classes of Work, if any, for which Proposers must be prequalified in accordance with ORS 279B.100 and Section 5.33.510;
    - e. A statement that the City may cancel the Procurement or reject any or all Proposals in accordance with ORS 279B.100 and Section 5.33.645;

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- f.** A statement that requires the Contractor or Subcontractor to possess an asbestos abatement license, if required under ORS 468A.710;
- g.** All Contractual terms and conditions applicable to the Procurement, including warranties and bonding requirements, if necessary. If the City intends to allow discussions or negotiations regarding terms and conditions it must either specify the terms and conditions subject to negotiation or the subject matter reasonably related to the terms and conditions that it will negotiate;
- h.** Notice of any pre-Offer conference as follows:

  - (1)** The time, date and location of any pre-Offer conference; and
  - (2)** Whether attendance at the conference will be mandatory or voluntary; and
  - (3)** That statements made by the City’s representatives at the conference or elsewhere are not binding upon the City unless confirmed by Written Addendum;
- i.** The form and submission of Offers and any other special information, (e.g., whether Offers may be submitted by Electronic means);
- j.** The scheduled Closing;
- k.** The location where the Specifications for the Goods or Services may be reviewed;
- l.** Contractor’s certification of nondiscrimination in obtaining required Subcontractors in accordance with Section 5.33.075; and
- m.** How the City will notify Offerors of Addenda and how the City will make Addenda available.
- n.** The successful proposer moving forward from the solicitation phase to the contract phase will be required to be in compliance with all City contracting requirements;
- o.** If the City intends to Award Contracts to more than one Proposer, the City must identify in the Solicitation Document the manner in which it will determine the number of Contracts it will Award. The criteria shall require the City to purchase the Goods and Services considered most advantageous to the City available from the multiple Contracts;

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2. City Need to Purchase. The character of the Goods or Services the City is purchasing including, if applicable, a description of the acquisition, Specifications, delivery or performance schedule, inspection and acceptance requirements. As required by ORS 279B.060(2)(c) the City's description of its need to purchase must:
  - a. Identify the scope of the work to be performed under the resulting Contract, if the City awards one;
  - b. Outline the anticipated duties of the Contractor under any resulting Contract;
  - c. Establish the expectations for the Contractor's performance of any resulting contract; and
  - d. Unless the contractor under any resulting Contract will provide architectural, engineering, photogrammetric mapping, transportation, planning or land surveying services, or related services that are subject to ORS 289C.100 to 279C.125, or the City for Good Cause specifies otherwise, the scope of work must require the Contractor to meet the highest standards prevalent in the industry or business most closely involved in providing the Goods or Services that the City is purchasing.
3. Proposal and Evaluation process.
  - a. The anticipated Solicitation schedule, deadlines, protest process, and evaluation process, if any;
  - b. The City shall set forth selection criteria in the Solicitation Document in accordance with the requirements of Section 5.33.210. Evaluation factors need not be precise predictors of actual future costs and performance, but to the extent possible, such factors shall be reasonable estimates based on information available to the City;
  - c. If the City's solicitation process calls for the City to establish a Competitive Range, the City shall generally describe, in the Solicitation Document, the criteria or parameters the City will apply to determine the Competitive Range. The City may increase or decrease the number of Proposers in the Competitive Range in accordance with Subsection 5.33.211 F.1.b.
4. Applicable preferences, including those described in ORS 279A.120, ORS 279A.125(2) and ORS 279A.128 and Sections 5.33.080 and 5.33.085.



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5. All Contractual terms and conditions in the form of Contract provisions the City determines are applicable to the Procurement. The City's determination of contractual terms and conditions that are applicable to the Procurement may take into consideration, as authorized by ORS 279B.060(3), those contractual terms and conditions the City will not include in the Request for Proposal because the City either will reserve them for negotiation, or will request Proposers to offer or suggest those terms or conditions.
  6. As required by ORS 279B.060(2)(h), the Contract terms and conditions must specify the consequences of the Contractor's failure to perform the scope of work or to meet the performance standards established by the resulting contract. Those consequences may include, but are not limited to:
    - a. The City's reduction or withholding of payment under the Contract;
    - b. The City's right to require the contractor to perform, at the contractor's expense, any additional work necessary to perform the statement of work or to meet the performance standards established by the resulting Contract; and
    - c. The City's rights, which the City may assert individually or in combination, to declare a default of the resulting contract, to terminate the resulting Contract, and to seek damages and other relief available under the resulting Contractor or applicable law.
  7. The City may include the applicable contract terms and conditions in the form of Contract provisions, or legal concepts to be included in the resulting Contract. Further, the City may specify that it will include or use Proposers' terms and conditions that have been pre-negotiated, but the City may only include those terms and conditions in the resulting Contract to the extent those terms and conditions do not materially conflict with the applicable contractual terms and conditions. The City shall not agree to any Proposer's terms and conditions that were expressly rejected in a solicitation protest filed by the Proposer.
  8. For multiple Award Contracts the City may enter into Contracts with different terms and conditions with each Contractor to the extent those terms and conditions do not materially conflict with the applicable contractual terms and conditions. The City shall not agree to any Proposer's terms and conditions that were expressly rejected in a solicitation protest filed by the Proposer.
- C. Good Cause. For the purposes of this rule, "Good Cause" means a reasonable explanation for not requiring Contractor to meet the highest standards prevalent in

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the industry or business most closely involved in providing the Goods or Services under the Contract, and may include an explanation of circumstances that support a finding that the requirement would unreasonably limit competition or is not in the best interest of the City. The City shall document in the Procurement file the basis for the determination of Good Cause for specifying otherwise. The City will have Good Cause to specify otherwise when the City determines:

1. The purpose to which the Goods or Services will be used does not justify a requirement that the Contractor meet the highest prevalent standards in performing the contract;
2. Imposing express technical, standard, dimensional or mathematical specifications will better ensure that the Goods or Services will be compatible with or will operate efficiently or effectively with components, equipment, parts, Services or information technology including hardware, Services or software with which the Goods or Services will be used, integrated, or coordinated;
3. The circumstances of the industry or business that provides the Goods or Services are sufficiently volatile in terms of innovation or evaluation of products, performance techniques, scientific developments, that a reliable highest prevalent standard does not exist or has not been developed.
4. That other circumstances exist in which City's interest in achieving economy, efficiency, compatibility or availability in the procurement of the Goods or Services reasonably outweighs the City's practical need for the highest prevalent standard if the applicable or closest industry or business that supplies the Goods or Services to be delivered under the resulting Contract.

**5.33.211 Procedures for Competitive Range, Multi-Tiered and Multi-Step Proposals.**

(Amended by Ordinance Nos. 183445, 185065, 185898 and 189878, effective March 4, 2020.)

- A. Generally. The City may use any combination of the methods of Contractor selection as set forth in ORS 279B.060 and this rule to procure Goods and Services. In addition to the procedures set forth in Sections 5.33.210 through 5.33.211 for methods of Contractor selection, the City may provide for a multi-tiered, or multi-step selection process that permits award to the highest ranked Proposer at any time or step, calls for the establishment of a Competitive Range or permits either serial or competitive simultaneous discussions with one or more Proposers. The City may use one or more or any combination of the procedures set forth in this rule for Competitive Range, multi-tiered and multi-step Proposals.

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- B.** ORS 279B.060(3)(d), (e) and (8) authorize the City to use methods of Contractor selection that include, but are not limited to multi-tiered or multi-step processes that embrace:
1. The evaluation of Proposals only, including the evaluations of serial Proposals (a series of more than one Proposal from each Proposer that remains eligible in the competition at the particular tier of the competition;
  2. The use of Proposals in connection with discussions with Proposers that lead to best and final Offers;
  3. The use of Proposals in connection with serial negotiations with Proposers that lead to best and final Offers or to the Award of a Contract.
  4. The use of Proposals in connection with competitive negotiations with Proposers that lead to best and final Offers or to the Award of a Contract; and
  5. The use of Proposals in multi-tiered competition designed to identify, at each stage of the competition, a class of Proposers that fall within a Competitive Range of Proposers that have a reasonable chance of being determined the most Advantageous Proposer or, in multiple-award situations, a reasonable chance of being determined an awardee of a Public Contract. Multi-tiered and multistep competitions may use any combination or series of Proposals, discussions, negotiations, demonstrations, offers, or other means of soliciting information from Proposers that bear on the selection of a Contractor or Contractors. In multi-tiered and multi-step competitions, the City may use these means of soliciting information from prospective Proposers in any sequence or order, as determined in the discretion of the City.
- C.** When the City's Request for Proposals prescribes a multi-tiered or multi-step Contractor selection process, the City nevertheless may, at the completion of any stage in the competition and on determining the Most Advantageous Proposers (or, in multiple-award situations, on determining the awardees of the public Contracts), award a Contract (or Contracts) and conclude the Procurement without proceeding to subsequent stages. The City also may, at any time, cancel the Procurement pursuant to ORS 279B.100 and this Code.
- D.** Exclusion Protest. The City may provide before the notice of an intent to Award an opportunity for a Proposer to protest exclusion from the Competitive Range or from subsequent phases of multi-tiered or multi-step sealed Proposals as set forth in Section 5.33.720.

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- E.** Award Protest. The City shall provide an opportunity to protest its intent to Award a Contract pursuant to ORS 279B.410 and Section 5.33.740. An Affected Offeror may protest, for any of the bases set forth in Section 5.33.720, its exclusion from the Competitive Range of a multi-tiered or multi-step sealed Proposal process, or may protest an Addendum issued following initial Closing, if the City did not previously provide Proposers the opportunity to protest the exclusion or Addendum. The failure to protest shall be considered the Proposer's failure to pursue any administrative remedy made available to the Proposers by the City.
- F.** Competitive Range. When the City's Solicitation process conducted pursuant to Section 5.33.210 calls for the City to establish a Competitive Range at any stage in the Procurement process, the City may do so as follows:
- 1.** Determining Competitive Range.
    - a.** The City may establish a Competitive Range after evaluating all Responsive Proposals in accordance with the evaluation criteria in the Request for Proposals. After evaluation of all Proposals in accordance with the criteria in the Request for Proposals, the City may determine and rank the Proposers in the Competitive Range. Notwithstanding the foregoing, however, in instances in which the City determines that a single Proposer has a reasonable chance of being determined the most Advantageous Proposer, the City need not determine or rank Proposers in the Competitive Range. In addition, the City may establish a Competitive Range of all Proposers to enter into discussions to correct deficiencies in Proposals.
    - b.** The City may establish the number of Proposers in the Competitive Range in light of whether the City's evaluation of Proposals identifies a number of Proposers who have a reasonable chance of being determined the most Advantageous Proposer, or whether the evaluation establishes a natural break in the scores of Proposers that indicates that a particular number of Proposers are closely competitive, or have a reasonable chance of being determined the most Advantageous Proposer.
  - 2.** Protesting Competitive Range. The City shall provide Written notice to all Proposers identifying Proposers in the Competitive Range. The City may provide an opportunity for Proposers excluded from the Competitive Range to protest the City evaluation and determination of the Competitive Range in accordance with Section 5.33.720.
- G.** Discussions.

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1. The City may initiate oral or Written discussions with all “eligible Proposers” on the subject matter within the general scope of the Request for Proposals.
  - a. In conducting discussions, the City:
    - (1) Shall treat all eligible Proposers fairly and shall not favor any eligible Proposer over another;
    - (2) May disclose other eligible Proposers’ Proposals or discussions only in accordance with ORS 279B.060(8)(b) or (c);
    - (3) May adjust the evaluation of a Proposal as a result of a discussion under this section discussions. The conditions, terms, or price of the Proposal may be altered or otherwise changed during the course of the discussions provided the changes are within the Scope of the Request for Proposals.
  - b. At any time during the time allowed for discussions, the City may:
    - (1) Continue discussions with a particular eligible Proposer;
    - (2) Terminate discussions with a particular eligible Proposer and continue discussions with other eligible Proposers; or
    - (3) Conclude discussions with all remaining eligible Proposers and provide to the then-eligible Proposers, notice pursuant to Subsection 5.33.211 J. requesting best and final Offers.

**H. Negotiations.**

1. The City may commence serial negotiations with the highest-ranked eligible Proposer or commence simultaneous negotiations with all eligible Proposers:
  - a. The City may negotiate:
    - (1) The statement of work;
    - (2) The Contract Price as it is affected by negotiating the statement of work other terms and conditions authorized for negotiation in the Request for Proposals or Addenda thereto; and

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- (3)** Any other terms and conditions reasonably related to those authorized for negotiation in the Request for Proposals or Addenda thereto. Proposers shall not submit for negotiation, and the City shall not accept, alternative terms and conditions that are not reasonably related to those authorized for negotiation in the Request for Proposals.

- I.** Terminating Negotiations. At any time during discussions or negotiations that the City conducts under this rule the City may terminate discussions or negotiations with the highest-ranked Proposer, or the eligible Proposer with whom it is currently discussing or negotiating, if the City reasonably believes that:
  - 1.** The eligible Proposer is not discussing or negotiating in good faith; or
  - 2.** Further discussions or negotiations with the eligible Proposer will not result in the parties agreeing to the terms and conditions of a final Contract in a timely manner.
  - 3.** Continuing Serial Negotiations. If the City is conducting serial negotiations and the City terminates negotiations with an eligible Proposer, the City may then commence negotiations with the next highest scoring eligible Proposer in the Competitive Range, and continue the sequential process described in Subsection 5.33.211 H. until the City has either:
    - a.** Determined to Award the Contract to the Proposer with whom it is currently discussing or negotiating; or
    - b.** Decided to cancel the Procurement pursuant to ORS 279B.100.
  - 4.** Competitive Simultaneous Negotiations. If the City chooses to conduct Competitive Negotiations, the City may negotiate simultaneously with competing Proposers. The City:
    - a.** Shall treat all Proposers fairly and shall not favor any Proposer over another;
    - b.** May disclose other Proposers' Proposals or the substance of negotiations with other Proposers only if the City notifies all of the Proposers with whom the City will engage in negotiations of the City's intent to disclose before engaging in negotiations with any Proposer.
  - 5.** Any oral modification of a Proposal resulting from negotiations under this Section must be reduced to Writing by the Proposer.

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- J.** Best and Final Offers. If best and final Offers are required, the City shall establish a common date and time by which eligible Proposers must submit best and final Offers. If the City is dissatisfied with the best and final Offers the City may make a Written determination that it is in the City's best interest to conduct additional discussions, negotiations or change the City's requirements and require another submission of best and final Offers. The City shall inform all eligible Proposers that if they do not submit notice of withdrawal or another best and final Offer, their immediately previous Offer will be construed as their best and final Offers. The City shall evaluate Offers as modified by the best and final Offer. The City shall conduct the evaluations as described in Section 5.33.610. The City may not modify evaluation factors or their relative importance after the date and time that best and final Offers are due.
- K.** Multi-step Sealed Proposals. The City may procure Goods and Services by using multi-step Competitive Sealed Proposals pursuant to ORS 279B.060 (8)(b)(g).

The use of multi-step Proposals is a phased process that seeks necessary information, or un-priced technical Proposals, in phase one and in the second phase, invites Proposers who submitted technically qualified Proposals, to submit competitive sealed price Proposals on the technical Proposals. The City must award the Contract to the Responsible Proposer submitting the most Advantageous Proposal in accordance with the terms of the Solicitation Document applicable to the second phase.

- 1.** Public Notice. Whenever the City uses multi-step sealed Proposals for Contracts over \$150,000, the City shall give Public Notice for phase one in accordance with Section 5.33.300. Public Notice is not required for phase two. However, the City shall give notice of the subsequent phases to all Proposers and inform any Proposers excluded from the subsequent phases of the right, if any, to protest exclusion pursuant to Section 5.33.720.
- 2.** Procedure for Phase One of Multi-Step Sealed Proposals. The City must initiate a multi-step sealed Proposals procurement by issuing a Request for Proposal in the form and manner required for competitive sealed Proposals except as provided by this rule. In addition to the requirements set forth in Section 5.33.210, the multi-step Request for Proposal must state:
  - a.** that un-priced technical Proposals are requested;
  - b.** that the Solicitation is a multi-step sealed Proposal Procurement, and that, in the second phase, priced Proposals will be accepted only from those Proposers whose un-priced technical Proposals are found qualified in phase one;
  - c.** the criteria for the evaluation of un-priced technical Proposals; and





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- A.** The City may Award a Contract as a Special Procurement pursuant to the requirements of this section, which permits class Special Procurements. Such Procurements allow the City to enter into a series of Contracts over time pursuant to the authorization provided in regard to the Special Procurement and without necessarily following the requirements of Competitive Sealed Bidding, Competitive Sealed Proposals or Intermediate Procurements.
- B.** For purposes of Section 5.33.220 the following definitions are applicable:
- 1.** “Class Special Procurement” means a contracting procedure that differs from the procedures described in Sections 5.33.180, 5.33.190, 5.33.200 and 5.33.210 and is for the purpose of entering into a series of contracts over time or for multiple projects.
  - 2.** “Contract-Specific Special Procurement” means a contracting procedure that differs from the procedures described in Sections 5.33.180, 5.33.190, 5.33.200 and 5.33.210 and is for the purpose of entering into a single Contract or a number of related Contracts on a one-time basis or for a single project.
  - 3.** “Special Procurement” means, unless the context requires otherwise, a class special Procurement, a contract-specific special Procurement or both.
- C.** The City Council, acting as the Local Contract Review Board may approve a special procurement if it finds that the use of a special procurement or an alternative procedure prescribed by the Council:
- 1.** Is unlikely to encourage favoritism in the award of public contracts or to substantially diminish competition for public contracts; and
  - 2.** Is reasonably expected to result in substantial cost savings to the City or to the public; or
  - 3.** Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with the requirements that are applicable under ORS 279B.055, 279B.060, 279B.070 or under the City Rule found in Chapter 5.33.
- D.** The City Council declares the following as classes of Special Procurements:
- 1.** **Manufacturer Direct Supplies:** The City may purchase goods directly from a manufacturer if the cost from the manufacturer is the same or less than the cost the manufacturer charges to its distributor(s).

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2. Advertisements: Except as provided by City Charter Section 8-101, the City may purchase advertising in newspapers and Written publications, web-based Internet sites and other electronic formats.
3. Copyrighted Materials: The City may purchase copyrighted materials where there is only one known supplier available for such goods. This includes, but is not limited to, new books, workbooks, periodicals, subscriptions, curriculum materials, reference materials, audio and visual media, and non-mass marketed software from a particular publisher or its designated distributor.
4. Financial Products: The City may directly purchase financial products such as bond insurance, surety bonds for City bond reserves and liquidity facilities such as letters of lines or credit. The City may pay fees associated with such transactions, including, but not limited to, registrar, paying agent, and escrow agent fees and fees associated with outstanding debt issues.
5. Employee Benefit Contracts: Contracts relating to employee benefits may be Awarded directly to a Contractor after the City obtains a consultant pursuant to Chapter 5.68 to conduct a competitive process to acquire such contractors. Such contracts include administrators of employee Flexible Spending Account Administration and Medical Claims Third Party Administration. The City will hire a consultant to advise it on firms available to provide the Work and the consultant is authorized to solicit firms pursuant to a Request for Proposal process as well as assist the City in placing advertisements in specific publications likely to reach the attention of such contractors or consultants. The City may then negotiate or enter into the Contract that appears most Advantageous to the City without further advertisement or issuance of its own Request for Proposals.
6. Insurance Contracts: Contracts for insurance, may be Awarded directly to an insurer after the City obtains Proposals from an insurance consultant. The consultant shall be selected pursuant to Chapter 5.68. Among the services to be provided by the consultant is the securing of competitive Proposals from insurance carriers for all coverages for which the insurance consultant is given responsibility and advice to the City about the costs and benefits of the various Proposals. The City may then negotiate or enter into the insurance Contract that appears most Advantageous to the City without advertisement or issuance of its own Request for Proposals.
7. Purchase of Used Personal Property or Equipment: The City may directly purchase used personal property and equipment. Used property and used equipment is property or equipment that has been placed in use by a previous owner or user for a period of time, and which is recognized in the relevant trade or industry, if there is one, as qualifying the personal property

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or equipment as “used”. Used personal property or equipment generally does not include property or equipment if the City was the previous user, whether under a lease, as part of a demonstration, trial or pilot project or similar arrangement.

- 8.** Hazardous Material Removal and Oil Clean-up. The City may directly purchase services to remove or clean up hazardous material or oil from any vendor when ordered to do so by the Oregon Department of Environmental Quality pursuant to its authority under ORS Chapter 466. In doing so, the following conditions apply:
  - a.** To the extent reasonable under the circumstances, encourage competition by attempting to obtain informal price quotations or Proposals from potential suppliers of Goods and Services;
  - b.** The Bureau responsible for managing or coordinating the clean-up shall submit a Written description of the circumstances that require it and a copy of the DEQ order for the cleanup to the Procurement Services together with a requisition authorizing the Contract.
  - c.** Procurement Services shall record whether there was time for competition, and, if so, the measures taken to encourage competition, the amount of the price quotations obtained, if any, and the reason for selecting the Contractor to whom Award is made; and
  - d.** The timeline for cleanup does not permit the use of intermediate Procurement procedures.
  
- 9.** Amendments to Contracts and Price Agreements: The City may execute Contract amendments, as follows:
  - a.** An original valid Contract exists between the parties;
  - b.** Unit prices or “add alternates” were provided in the Solicitation Document that established the cost basis for the additional Work or product or in a lump sum Contract the Contractor has provided an estimate of the additional cost which has been verified by the Bureau seeking the amendment; and
  - c.** The Solicitation Document provided for such amendments; or
  - d.** Emergency: The original Contract was let pursuant to a declaration of Emergency, in accordance with Section 5.33.130; or
  - e.** Unplanned Environmental Cleanup: The additional Work is required by reason of existing regulations or ordinances of federal,

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state or local agencies, dealing with the prevention of environmental pollution and the preservation of natural resources, that affect performance of the original Contract and such regulations or ordinances either were not cited in the original Contract or were enacted or amended after submission of the successful Bid or Proposal.

**10. Renegotiations of Existing Contracts with Incumbent Contractors.**

- a.** Authorization. The City may renegotiate and amend existing Contracts with incumbent Contractors only if it is in the best interest of the City and has the approval of the Chief Procurement Officer prior to negotiation.
- b.** Process and Criteria. The City may renegotiate various items of the Contract, including but not limited to: price, term, delivery and shipping, order size, item substitutions, warranties, discounts, on-line ordering systems, price adjustments, product availability, product quality, and reporting requirements. The City must meet the following conditions in its Renegotiations with incumbent Contractors:
  - (1)** Favorable Result. The City must determine that, with all things considered, the renegotiated Contract is at least as favorable to the City as the Original Contract and document this in the Procurement File. For example, the City and the Contractor may adjust terms and conditions within the Original Contract to meet different needs;
  - (2)** Within the Scope. The Goods and Services provided under the renegotiated Contract must be reasonably related to the Original Contract's Solicitation. For example, the City may accept functionally equivalent substitutes for any Goods and Services in the Original Contract's Solicitation.
  - (3)** Optional Term or Condition. If a Contractor offered to the City during the original Solicitation a term or condition that was rejected at that time, the City may not renegotiate for a lower price based on this rejected term or condition as a mandatory term or condition in the renegotiated Contract. If, however, a Contractor offers a lower price pursuant to a rejected term or condition without additional consideration from the City and as only an option to the City, then the City may accept the option of a lower price under the rejected term or condition. For example, if the City initially rejected

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a Contractor's proposed condition that the price required a minimum order, any renegotiated Contract may not mandate this condition; but the City may agree to the option to order lesser amounts or receive a reduced price based upon a minimum order; and

- (4) Market. In order to avoid encouraging favoritism or diminishing competition, the City may research the accepted competitive practices and expectations of Offerors within the market for the specific Contract(s) or Classes of Contracts to be renegotiated thereby establishing a market norm. If the City determines that a market norm exists, then the City must document its results in the Procurement File. Based upon this information, the City shall confirm that, if the City follows the market norm, favoritism is not likely to be encouraged, competition is not likely to be diminished, and substantial cost savings may be realized. Under no condition may the City accept or follow any market norm that likely encourages favoritism or diminishes competition, even if it is accepted or expected in the market.
11. Reverse Auctions, pursuant to the process established in Section 5.33.350.
12. Software and Hardware Maintenance, Licenses, Subscriptions and Upgrades. The City may directly enter into a Contract or renew existing Contracts for information technology hardware or software maintenance, licenses, subscriptions and upgrades without Competitive Solicitation where the maintenance, upgrades, subscriptions and licenses are either available from only one source or, if available from more than one provider, are obtained from the City's current provider in order to utilize the pre-existing knowledge of the vendor regarding the specifics of the City's hardware or software system. The City shall document in the Procurement File the facts that justify either that maintenance, license(s), subscriptions and upgrades were available from only one source or, if from more than one source, from the current vendor.
13. Equipment Maintenance, Repair and Overhaul. The City may enter into a Contract for equipment maintenance, repair and/or overhaul without competitive bidding and without obtaining competitive quotations if the extent of repair services, parts, maintenance or overhaul is unknown and cost cannot be determined without preliminary dismantling or testing.
14. Price-regulated goods and services, utilities and utility related services. The City may directly purchase, without a competitive solicitation process, utility services, repair, equipment and/or maintenance work, where the rate

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or price for such goods and services is established by federal, state, or local regulatory authority or when the services can be provided only by a specific utility.

- 15.** Goods, Services or Equipment Required by a Federal Grant Agreements. The City may directly purchase, without a competitive solicitation process, goods, services or equipment when they are required to be purchased from a specific source or when a specific brand name is required and no competition is otherwise available.
- 16.** Membership Dues. The City may directly purchase, without a competitive solicitation process, dues or memberships in professional or community organizations for the benefit of the City.
- 17.** US Postal Service. The City may directly purchase without a competitive solicitation process, permits and postage meters, pre-stamped postcards, establish on-going postage accounts, etc. from the US Postal Service.
- 18.** Services related to legal advice. The City may directly purchase, without a competitive solicitation process, services related to the provision of legal advice to the City:

  - a.** When a Contractor or Consultant, such as a court reporter or copy service, has been selected by another person and the City must bear a portion of the cost in order to receive the benefit of the contractor's work, such as deposition transcripts or photocopies; or
  - b.** When the Contractor or Consultant, including, but not limited to a mediator, arbitrator, referee or court appointed individual, is selected either by a court, or by joint agreement between the City and another person or persons, in an effort to resolve a claim or dispute that has been or will be asserted by or against the City, regardless of whether litigation has been filed.
- 19.** Seminar, training registration and conference fees. The City may directly purchase, without a competitive solicitation process, seminar registrations and training session fees for attendance at seminars, conferences and training courses hosted by outside entities.
- 20.** Event sponsorship agreements. The City may directly pay to sponsor an event, whether or not the City receives goods or services in return for its payment.
- 21.** Stormwater Improvements. The City may enter into a Contract for stormwater improvements or watershed restoration, or both, without

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obtaining competitive solicitations if all or a significant portion of the improvements or restoration that the City is funding will be performed

- a. on private property; and
    - b. by the property owner or a contractor hired by the property owner.
  - 22. Performing Artists. The City may enter into a Contract for performance art whether vocal, instrumental, or visual required by the City to provide a paid performance of their work for an audience determined by the City.
  - 23. Honoraria. The City may make a one-time payment or gratuity granted in recognition of a special service in which propriety or a competitive selection process is not feasible and made without the service provider recognizing themselves as having any liability or legal obligation for services.
- E.** Notice. The City shall give public notice of the City Council’s approval of an Individual or Class Special Procurement on its website as provided in Subsection 5.33.300 A.3. The public notice shall describe the Goods or Services or class of Goods or Services to be acquired through the Special Procurement. The City shall give such public notice of the approval of a Special Procurement at least seven (7) Days before Award of the Contract. If the Special Procurement leads to a Solicitation Document, then the City will post a Notice of Intent to Award the contract pursuant to Section 5.33.650.
- F.** If the City plans to conduct a competitive special Procurement, it shall award the contract to the Offeror the City determines to be the most advantageous to the City and thereafter give notice of intent to Award to all prequalified Offerors who sought the Award of a Contract in the manner provided for competitive sealed Bids.

**5.33.300 Public Notice of Solicitation for Contracts over \$150,000.**

(Amended by Ordinance Nos. 183445, 185898, 187373 and 189878, effective March 4, 2020.)

- A.** Notice and Solicitation Fee. The City shall furnish Public Notice of every Solicitation Document in accordance with Subsection 5.33.300 B. The City may give additional Notice using any method it determines appropriate to foster and promote competition, including:
- 1. Mailing notice of the availability of Solicitation Document to Persons that have expressed an interest in the City’s Solicitations; or
  - 2. Placing Notice on the Oregon Department of Administrative Services’ Electronic Procurement System known as “ORPIN” (Oregon Procurement Information Network) or a successor Electronic system; or

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- 3.** Place Notice on the City’s Electronic Procurement System.
- B.** Advertising. The City shall advertise every notice of a Solicitation Document as follows:

  - 1.** The City shall publish the advertisement for Offers in accordance with the requirements of ORS 279B.055(4)(a) and (b) and 279B.060(5); or
  - 2.** Because the City finds that it would be cost effective to Electronically post notice of Bids and Proposals, the City may publish the advertisement for Offers by Electronic Advertisement in accordance with the requirements established by Section 5.33.340.
  - 3.** Content. All advertisements for Offers shall set forth:

    - a.** Where, when how and for how long the Solicitation Document may be obtained.
    - b.** A general description of the Goods or Services to be acquired;
    - c.** The interval between the first date of notice of the Solicitation Document given in accordance with Subsection 5.33.300 B. and Closing which shall not be less than fourteen (14) Days for an Invitation to Bid and 21 Days for a Request for Proposals, unless the City determines that shorter interval is in the public’s interest, and that a shorter interval will not substantially affect competition. However, in no event shall the interval between the first date of notice of the Solicitation Document given in accordance with Subsection 5.33.300 B. and Closing be less than seven (7) Days as set forth in Section 5.33.200. The City shall document the specific reasons for the shorter public notice period in the Procurement file;
    - d.** The date that Persons must file applications for Prequalification if Prequalification is a requirement and the class or classes of Goods or Services for which Persons must be prequalified;
    - e.** The location where Contract terms, conditions and Specifications may be reviewed;
    - f.** The name and title of the person designated for the receipt of Bids or Proposals and the person designated by the City as the contact person for the Procurement, if different;
    - g.** The scheduled Opening; and
    - h.** Any other information the City deems appropriate.



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- C. Posting Advertisement for Offers. An Offeror may obtain a copy of the advertisement for Offers upon request.
- D. The City may charge a fee or require a deposit for the Solicitation Document.
- E. The City shall provide potential Offerors notice of any Addendum to a Solicitation Document in accordance with Section 5.33.430.

**5.33.310 Specifications and Brand Names.**

(Amended by Ordinance Nos. 183445,185898 and 189878, effective March 4, 2020.)

- A. Specification content is in the sole discretion of the City of Portland.
- B. The City may consult with technical experts, suppliers, prospective Contractors and representative of the industries with which the City will Contract. The City shall take reasonable measure to ensure that no person who prepares or assists in the preparation of Solicitation Documents, Specifications, plans or Scopes of Work (collectively, “documents”), and that no business with which the person is associated realizes a material competitive advantage in a Procurement that arises from the City’s use of those documents.
- C. A “brand name or equal” Specification may be used when it is Advantageous to the City. The brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the City. The City’s determination of what constitutes a product that is equal or superior to the product specified is final. Unless otherwise specified, the use of a brand name shall mean “brand name or equal.”
- D. A “brand name” Specification may be used requiring a Contractor to provide a specific brand only if the Chief Procurement Officer makes a Written determination finding that the brand name will meet one or more of the following needs:
  - 1. The use of a brand name Specification is unlikely to encourage favoritism in the Awarding of a Contract or substantially diminish competition for Contracts; or
  - 2. The use of a brand name Specification would result in a substantial cost savings to the City; or
  - 3. There is only one manufacturer or seller of the product of the quality, performance or functionality required; or
  - 4. Efficient utilization of existing goods requires the acquisition of compatible Goods or Services.

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- E. The City's use of a brand name specification is subject to protest and review only as provided in Section 5.33.730.

**5.33.320 Bids or Proposals are Offers.**

(Amended by Ordinance Nos. 185898 and 189878, effective March 4, 2020.)

- A. Offer and Acceptance. A Bid Proposal is an Offer to enter into a Contract. The Offer is a "Firm Offer," i.e., the Offer shall be held open by the Offeror for the City's acceptance for the period specified in Section 5.33.495. The City's Award of the Contract constitutes acceptance of the Offer and binds the Offeror to the Contract.
- B. Responsive Offer. The City may Award a Contract only to a Responsible Offeror with a Responsive Offer.
- C. Contingent Offers. Except to the extent an Offeror is authorized to propose certain terms and conditions pursuant to Section 5.33.211 a Proposer shall not make its Offer contingent upon the City's acceptance of any terms or conditions (including Specifications) other than those contained in the Solicitation Document.
- D. Offeror's Acknowledgment. By signing and returning the Offer, the Offeror acknowledges it has read and understands the terms and conditions contained in the Solicitation Document and that it accepts and agrees to be bound by the terms and conditions of the Solicitation Document. If the Request for Proposals permits alternative terms under Section 5.33.215, the Proposal includes the nonnegotiable terms and conditions and any proposed terms and conditions offered for negotiation upon and to the extent accepted by the City in Writing.

**5.33.330 Facsimile Bids and Proposals.**

(Repealed by Ordinance No. 189878, effective March 4, 2020.)

**5.33.340 Electronic Procurement.**

(Amended by Ordinance Nos. 183445, 185898 and 189878, effective March 4, 2020.)

- A. The City may conduct all phases of a Procurement, including without limitation the posting of Electronic Advertisements and the receipt of Electronic Offers, by Electronic methods if and to the extent the City specifies in a Solicitation Document, a request for quotes, or any other Written instructions on how to participate in the Procurement.
- B. The City shall open an Electronic Offer in accordance with Electronic security measures in effect at the City at the time of its receipt of the Electronic Offer. Unless the City provides procedures for the secure receipt of Electronic Offers, the Person submitting the Electronic Offer assumes the risk of premature disclosure due to submission in unsealed form.

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- C.** The City’s use of Electronic Signatures shall be consistent with applicable statutes and rules. The Chief Procurement Officer may limit the use of Electronic methods of conducting a Procurement as Advantageous to the City.
- D.** If the City determines that Bid or Proposal Security is or will be required, the Chief Procurement Officer will not authorize Electronic Offers unless the City has another method for receipt of such security.
- E.** Rules Governing Electronic Procurements. The City shall conduct all portions of an Electronic Procurement in accordance with these rules, unless otherwise set forth in this rule.
- F.** Preliminary Matters. As a condition of participation in an Electronic Procurement the Chief Procurement Officer may require potential Contractors to register with the City before the date and time on which the City will first accept Offers, to agree to the terms, conditions, or other requirements of a Solicitation Document, or to agree to terms and conditions governing the Procurement, such as procedures that the City may use to attribute, authenticate or verify the accuracy of an Electronic Offer, or the actions that constitute an Electronic Signature.
- G.** Offer Process. The Chief Procurement Officer may specify that Persons must submit an Electronic Offer by a particular date and time, or that Persons may submit multiple Electronic Offers during a period of time established in the Electronic Advertisement. When the Chief Procurement Officer specifies that Persons may submit multiple Electronic Offers during a specified period of time, the City must designate a time and date on which Persons may begin to submit Electronic Offers, and a time and date after which Persons may no longer submit Electronic Offers. The date and time after which Persons may no longer submit Electronic Offers need not be specified by a particular date and time, but may be specified by a description of the conditions that, when they occur, will establish the date and time after which Persons may no longer submit Electronic Offers. When the City will accept Electronic Offers for a period of time, then at the designated date and time that the City will first receive Electronic Offers, the City must begin to accept “real time” Electronic Offers on the City’s’ Electronic Procurement System, and shall continue to accept Electronic Offers in accordance with Subsection 5.33.340 H.2. until the date and time specified by the City, after which the City will no longer accept Electronic Offers.
- H.** Receipt of Electronic Offers.

  - 1.** When the City conducts an Electronic Procurement that provides that all Electronic Offers must be submitted by a particular date and time, the City shall receive the Electronic Offers in accordance with these rules.

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2. When the City specifies that Persons may submit multiple Offers during a period of time, the City shall accept Electronic Offers, and Persons may submit Electronic Offers, in accordance with the following:
  - a. Following receipt of the first Electronic Offer after the Day and time the City first receives Electronic Offers the City shall post on the City's Electronic Procurement System, and updated on a real time basis, the lowest Electronic Offer price or the highest ranking Electronic Offer. At any time before the date and time after which the City will no longer receive Electronic Offers, a Person may revise its Electronic Offer, except that a Person may not lower its price unless that price is below the then lowest Electronic Offer.
  - b. A Person may not increase the price set forth in an Electronic Offer after the Day and time that the City first accepts Electronic Offers.
- I. Failure of the Electronic Procurement System. In the event of a failure of the City's Electronic Procurement System that interferes with the ability of Persons to submit Electronic Offers, protest or to otherwise participate in the Procurement, the City may cancel the Procurement in accordance with Section 5.33.660, or may extend the date and time for receipt of Electronic Offers by providing notice of the extension immediately after the Electronic Procurement System becomes available.

**5.33.350 Reverse Auctions.**

(Amended by Ordinance No. 189878, March 4, 2020.)

- A. Conditions for use. When the City determines that online Solicitation is an Advantageous Procurement method, a Contract may be entered into by competitive online Bidding, subject to the provisions of Competitive Sealed Bidding or Competitive Sealed Proposals.
- B. Offer process. The Solicitation must designate both a date and time when the City will begin accepting Offers, and a date and time at which the City intends to stop receiving Offers. The date and time the City intends to stop receiving Offers need not be a fixed point in time but may remain dependent on a variable specified in the Solicitation. At the date and time the City intends to begin accepting Offers, the City must begin accepting real time Electronic Offers. The Solicitation must remain open until the date and time or conditions have been reached for the City to stop accepting Offers. The City may require Offerors to register before the date and time the City intends to begin accepting Offers and, as a part of that registration, to agree to the terms, conditions, or other requirements of the Solicitation. Following receipt of the first Offer after the date and time the City intends to begin accepting Offers, the lowest Offer price or, if Proposals are accepted, the ranking of each Proposer, must be posted Electronically and updated on a real time basis. At any time before the date and time the City intends to stop receiving Offers, an Offeror may lower

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the price of its Offer or revise its Proposal except that after the date and time the City intends to begin accepting Offers, an Offeror may not lower its price unless that price is below the then lowest Offer. Offer prices may not be increased after the date and time the City intends to begin accepting Offers. Except for Offer prices, Offers may be modified only as otherwise allowed by these rules or the Solicitation Document. An Offer may be withdrawn only in compliance with these rules. If an Offer is withdrawn, no later Offer submitted by the same Offeror may be for a higher price. If the lowest Responsive Offer is withdrawn after the date and time the City intends to stop receiving Offers, the City may cancel the Solicitation or reopen the Solicitation to all pre-existing Offerors by giving notice to all pre-existing Offerors of both the new date and time the City intends to begin accepting Offers and the new date and time the City intends to stop receiving Offers. Notice that Electronic Solicitation will be reopened must be given as specified in the Solicitation Document.

- C. Failure of the Electronic Procurement System. In the event of a failure of the Electronic Procurement System that interferes with the ability of Offerors to submit Offers, protest, or to otherwise meet the requirements of the Procurement, the City may cancel the Solicitation or may extend the Solicitation by providing notice of the extension immediately after the System becomes available.

**5.33.360 Contract Conditions**

Every Contract shall contain the conditions required by ORS 279B.220, 225, 230 and 235.

**5.33.400 Offer Preparation.**

(Amended by Ordinance Nos. 185898 and 189878, effective March 4, 2020.)

- A. Instructions. An Offeror shall sign and submit its Offer in accordance with the Solicitation Document. Unless otherwise instructed, or unless Electronic Offers are permitted, signatures shall be in ink. An Offeror shall initial and submit any correction or erasure to its Offer prior to the Opening in accordance with the requirements for submitting an Offer under the Solicitation Document.
- B. Forms. An Offeror shall submit its Offer on the form(s) provided in the Solicitation Document, unless an Offeror is otherwise instructed in the Solicitation Document.
- C. Documents. An Offeror shall provide the City with all documents and Descriptive Literature required under the Solicitation Document. If the Solicitation Document instructs Offerors not to include documents or literature, such as warranty provisions, the City is entitled to disregard those documents in determining whether the Offer is responsive to the City's request.
- D. Electronic Submissions. If the Solicitation Document permitted Electronic Offers under Section 5.33.340 an Offeror may submit its Offer Electronically. The City

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shall not consider Electronic Offers unless authorized by the Solicitation Document.

**5.33.410 Bid or Proposal Security.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A.** Offer Security, not to exceed 10 percent of the Offer, is not required for Contracts other than Public Improvement Contracts unless the Chief Procurement Officer determines otherwise. If required, the purpose of Offer Security is to guarantee acceptance of the Award of the Contract. This requirement shall be stated in the Solicitation Document.
- B.** The Chief Procurement Officer may require Offer Security from any Offeror, even if the City has exempted a class of Solicitations from Offer Security.
- C.** The Offer Security shall be forfeited if the Offeror fails to execute the Contract promptly and properly after the City has Awarded the Contract, unless the Chief Procurement Officer determines forfeiture is not in the City's best interest.
- D.** The City shall not use Offer Security to discourage competition.
- E.** Return of Offer Security. The Offer Security of all unsuccessful Offerors shall be returned or released after a Contract has been executed and evidence of insurance and a performance bond provided (if insurance or performance bond is required by the Solicitation Document), or after all Offers have been rejected. The City may return the Offer Security of unsuccessful Offerors after Opening, but prior to Award, if the return does not prejudice Contract Award and provided that the security of at least the two lowest Bidders, or the two highest scoring Proposers, is retained pending the Award and execution of a Contract.
- F.** Form of Bid or Proposal security. The City may accept only the following forms of Bid or Proposal security:
  - 1.** A surety bond, signed by the surety's authorized Attorney in Fact, that is authorized to do business in the State of Oregon and is duly listed in the United States Treasury list as published in the Federal Register, or is otherwise approved by the City Attorney. The surety company's seal shall be affixed to the bond and a Power of Attorney for the Attorney in Fact shall be submitted. The City Attorney has the authority to waive the requirement of corporate seal; or
  - 2.** A signed irrevocable letter of credit issued by an insured institution as defined in ORS 706.008(12); or
  - 3.** Cashier's check or Offeror's certified check; or

4. An annual surety bond filed with the City (except for Public Improvement Contracts) that meets all the requirements of Subsection 5.33.410 F.1. above.

**5.33.420 Pre-Offer Conferences.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A. Purpose. The City may hold pre-Offer conferences with prospective Offerors prior to Closing, to explain the Solicitation requirements, obtain information, or to conduct site inspections.
- B. Required Attendance. The City may require attendance at the pre-Offer conference as a condition for making an Offer. A prospective Offeror who fails to attend a mandatory conference is not eligible to make an Offer. If an Offer is made it will be rejected as nonresponsive.
- C. Scheduled Time. If the City holds a pre-Offer conference, it shall be held within a reasonable time after the Solicitation Document has been issued, but sufficiently before the Closing to allow Offerors to consider information provided at that conference.
- D. Statements Not Binding. Statements made by a City representative at the pre-Offer conference or elsewhere about the proposed Contract or Solicitation Document do not change the Solicitation Document unless Procurement Services confirms such statements with a Written Addendum to the Solicitation Document.
- E. City Announcement. The City must set forth notice of any pre-Offer conference in the Solicitation Document in accordance with Section 5.33.300.

**5.33.430 Addenda to Solicitation Document.**

(Amended by Ordinance Nos. 183445, 185898 and 189878, effective March 4, 2020.)

- A. Issuance; Receipt. A Solicitation Document may be changed only by a Written Addendum. An Offeror shall provide Written acknowledgment of receipt of all issued Addenda with its Offer, unless the City otherwise specifies in the Addenda or Solicitation Document. If an Offeror submits an Offer and the Solicitation Document states that the Offeror is bound by all Addenda published in accordance with these rules, then the Offeror shall be bound to the terms contained in all Addenda so issued.
- B. Notice and Distribution. The City shall notify prospective Offerors of Addenda consistent with the standards of Notice as defined in Section 5.33.010 and set forth in Section 5.33.300. The Solicitation Document shall specify how the City will provide notice of Addenda and how the City will make the Addenda available. For example, the City may state: "City will not mail notice of Addenda, but will publish

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notice of any Addenda on City's Web site. Addenda may be downloaded from the City's Web site. Offerors should frequently check the City's Web site until Closing, i.e., at least once weekly until the week of Closing and at least once daily during the week of the Closing."

**C. Timelines; Extensions.**

- 1.** The City shall issue Addenda within a reasonable time to allow prospective Offerors to consider the information contained in the Addenda in preparing their Offers. The City should extend the Closing if the Chief Procurement Officer determines prospective Offerors need additional time to review and respond to Addenda. Except to the extent that the Chief Procurement Officer determines that the public interest requires it, the City shall not issue an Addendum less than 3 Business Days before the Closing unless the Addendum also extends the Closing. For purposes of computing this time, the Addendum shall be deemed issued when it is first posted on the City's Electronic Procurement System or upon mailing, whichever is applicable. If both occur, the notification is complete when the first of these two events occur.
- 2.** Notwithstanding Subsection 5.33.430 C.1., an Addendum that modifies the evaluation criteria, selection process or procedure for any tier of competition under a multi-step sealed Bid or a multi-tiered or multi-step sealed Proposal issued in accordance with Sections 5.33.205 and 5.33.210 through 5.33.211 must be issued no fewer than five (5) Days before the beginning of that tier or step of competition, unless the City determines that a shorter period is sufficient to allow Offerors to prepare for that tier or step of competition. The City shall document the factors it considered in making that determination, which may include, without limitation, the Scope of the changes to the Solicitation Document, the location of the remaining eligible Proposers, or whether shortening the period between issuing an Addendum and the beginning of the next tier or step of competition favors or disfavors any particular Proposer or Proposers.

- D.** Request for Change or Protest. Unless a different deadline is set forth in the Addendum, an Offeror must submit a Written request for change or protest to the Addendum, as provided in Section 5.33.730, by the close of the City's next Business Day after issuance of the Addendum. The City shall consider only an Offeror's request for change or protest to the Addendum; the City shall not consider a request for change or protest to matters not added or modified by the Addendum. Notwithstanding any provision of this paragraph, the City is not required to provide a protest period for Addenda issued during a multi-tier or multi-step Procurement process conducted pursuant to Sections 5.33.200 or 5.33.210.



**5.33.440 Request for Clarification or Change.**

(Amended by Ordinance Nos. 183445, 185898 and 189878, effective March 4, 2020.)

- A.** Time for submission of request for change. Unless otherwise provided in the Solicitation Document, an Offeror shall deliver any request for change of the Solicitation Document, Specifications or Contract provisions to the City in Writing within seven (7) Days prior to Bid or Proposal Closing. Requests for change in regard to Addenda shall be submitted in accordance within the time permitted by Subsection 5.33.430 D.
- B.** Any request for change shall include a detailed statement of the legal and factual reasons for the request for change; any proposed changes to Specifications or Contract provisions; and a description of any prejudice to the Offeror; and, a statement of the form of relief requested. No request for change of the content of the Solicitation Document, Specifications or Contract provisions shall be considered after the deadline established for submitting such request. The City shall notify the Offeror if the City entirely rejects the request. If the City agrees with the request, in whole or in part, the City shall either issue an Addendum reflecting the change or cancel the Solicitation.
- C.** Extension of Closing date. If any request for change is timely received in accordance with these rules the Closing may be extended by the Chief Procurement Officer if it is determined that an extension is necessary to allow consideration of the request or issuance of any Addendum to the Solicitation Document.
- D.** Identification of request for change. Envelopes containing requests for change or protests of the Solicitation Document, Specifications or Contract provisions shall be marked with the following information:

  - 1.** Solicitation Specification or Contract Provision Request for Change; and
  - 2.** Solicitation Document Number or Other Identification.
- E.** A Proposer may request a change to add alternate terms and conditions for negotiation if the Solicitation Document permits negotiation. In this circumstance, the request for change procedure shall be governed by the Solicitation Document and Subsection 5.33.211 H.
- F.** Clarification. Prior to the deadline for submitting a request for change, an Offeror may request in Writing that the City clarify any provision of the Solicitation Document or Contract. The City's clarification, whether oral or in Writing, does not change the Solicitation Document or Contract and is not binding on the City unless the City amends the Solicitation Document by Written Addendum.

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**5.33.450 Offeror Submission.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A.** Product Samples and Descriptive Literature. Product Samples or Descriptive Literature may be required if it is necessary or desirable to evaluate the quality, features or characteristics of the offered items. The City will dispose of Product Samples, return, or make available for return, Product Samples to the Offeror in accordance with the Solicitation Document.
- B.** Identification of Offers.
  - 1.** To ensure proper identification and handling, Offers shall be submitted in a sealed envelope appropriately marked or in the envelope provided by the City, whichever is applicable. If the City permits Electronic Offers in the Solicitation Document, the Offeror may submit and identify Electronic Offers in accordance with the Solicitation Document.
  - 2.** The City is not responsible for Offers submitted in any manner, format or to any delivery point other than as required in the Solicitation Document.
  - 3.** Receipt of Offers. The Offeror is responsible for ensuring the City receives its Offer at Procurement Services prior to the stated Closing time for Offers, regardless of the method used to submit or transmit the Offer. Offers not so received are late as provided in Section 5.33.480 and shall be returned unopened. If a late Offer is opened inadvertently, the procedure provided by Section 5.33.480 shall apply except the submission shall be returned to the Offeror.

**5.33.460 Pre-Closing Modification or Withdrawal of Offers.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A.** Modifications. An Offeror may modify its Offer in Writing prior to the Closing. Unless otherwise provided in the Solicitation Document, any modifications shall be prepared on the Offeror's letterhead, signed by an Authorized Representative of the Offeror, state that the new document supersedes or modifies the prior Offer and be submitted in a sealed envelope, appropriately marked. The City may accept modifications Electronically only if it has authorized Electronic submittal of the Offer in the Solicitation document. The Offeror shall mark the submitted modification as follows:
  - 1.** Offer Modification; and
  - 2.** Solicitation Number or other identification as specified in the Solicitation Document.
- B.** Withdrawals:

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1. An Offeror may withdraw its Offer by Written notice submitted on the Offeror's letterhead, Signed by an Authorized Representative of the Offeror, delivered to the location specified in the Solicitation Document or to Procurement Services if no location is specified, and received by the specific location or to Procurement Services, as appropriate, prior to the time and date set for Closing.
2. The Offeror or Authorized Representative of the Offeror may withdraw its Offer in person prior to the Closing, upon presentation of appropriate identification and satisfactory evidence of authority. Because of the chance for error or misidentification, the City reserves the right to reject a purported withdrawal if in the judgment of the City, sufficient identification is not provided.
3. The City may release an unopened Offer withdrawn under Subsection 5.33.460 B.1. to the Offeror or its Authorized Representative, after voiding any date and time stamp mark or otherwise by appropriately marking the envelope in which the Offer was received.
4. The Offeror shall mark the Written request to withdraw an Offer as follows:
  - a. Offer Withdrawal; and
  - b. Solicitation Number or other identification as specified in the Solicitation Document.
  - c. Documentation. The City shall include all documents relating to the modification or withdrawal of Offers in the appropriate Solicitation file.

**5.33.470 Receipt, Opening, and Recording of Offers.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A. Receipt. Procurement Services shall Electronically or mechanically time-stamp or hand-mark each Offer and any modification upon receipt. The Offer or modification shall not be opened, but shall be stored in a secure place until Opening. If an Offer or modification is inadvertently opened prior to the Opening, the City shall reseal and store the opened Offer or modification for Opening. That action shall be documented and placed in the appropriate Solicitation file. (e.g. "City inadvertently opened the Offer due to improper identification of the Offer.")
- B. Opening and recording. Offers shall be opened publicly, including any modifications made to the Offer pursuant to Section 5.33.460.

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1. In the case of Invitations to Bid, to the extent practicable, the name of each Bidder shall be read aloud as well as the Bid price(s), and such other information as the City considers appropriate.
  2. In the case of Requests for Proposals, the City will not read Proposals aloud, but will only disclose the name of each Proposer.
- C. Availability. After Opening, Offers will be available for public inspection except for those portions of an Offer that the Offeror designates as trade secrets or as confidential proprietary data in accordance with applicable law. See ORS 192.501(2); ORS 646.461 to 646.475.
1. To the extent such designation is not in accordance with applicable law, the City shall make those portions available for public inspection. The Offeror shall separate information designated as confidential from other non-confidential information at the time of submitting its Offer.
  2. Prices, makes, model or catalog numbers of items offered, scheduled delivery dates, and terms of payment are not confidential, and shall be publicly available regardless of an Offeror's designation to the contrary. The Chief Procurement Officer may determine the appropriate charge to be paid for copies made pursuant to public records requests and may request payment for such copies before they are released.
  3. Notwithstanding anything contrary above, the City is not required to disclose the contents of Proposals until after the City posts a Notice of Intend to Award pursuant to Section 5.33.650.

**5.33.480 Late Offers, Late Withdrawals and Late Modifications.**

(Amended by Ordinance No. 183445, effective January 6, 2010.)

- A. Any Offer received after Closing is late. An Offeror's request for withdrawal or modification of an Offer received after Closing is late. The City shall not consider late Offers, withdrawals or modifications
- B. For manual submissions of Offers, Procurement Services' time clock shall be the clock of record and the date and time imprint of that clock on an Offer shall determine the timeliness of the submission. Late manual submissions shall be returned to the Offeror unopened with a copy of the envelope containing the Bureau's time stamp on the Offer retained for the Solicitation file
- C. For Electronic submissions, when permitted, the time shown by the City as to the date of arrival of the Electronic submission shall determine the timeliness of the submission. Late Electronic submissions shall be deleted from the City's files, returned Electronically to the Offeror and the time of the submission and the time of return shall be documented in the Solicitation file.

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- D.** For Facsimile submissions, when permitted, the time recorded at the top of the last page of the submission shall determine the timeliness of the submission. Late Facsimile transmissions shall be returned to the Offeror after keeping a copy of the last page of the transmission for the Solicitation file.
- E.** Failure to properly return or dispose of a late submission does not mean an Offer or submission arrived on time.

**5.33.490 Mistakes.**

- A.** General. To protect the integrity of the competitive Solicitation process and to assure fair treatment of Offerors, the City should carefully consider whether to permit a waiver, correction or withdrawal of an Offer for certain mistakes.
- B.** Treatment of Mistakes. Errors in judgment do not permit an Offeror to correct or withdraw an Offer. Mistakes that constitute a minor informality may be waived or corrected. Mistakes that constitute clerical errors may be corrected or withdrawn in the City's discretion pursuant to this rule.
- C.** City notification. If the City believes the Offer contains a mistake the City shall notify the Offeror, note the apparent mistake and request that the Offeror verify the Offer in writing, or by electronic transmission within one business day after notification.
- D.** Failure of Offeror to Respond. If the Offeror fails to respond within one business day after notification of the apparent mistake, the City shall consider the Offer as submitted unless the amount of the Offer is so far out of line with the amounts of other bids received, or with the amount estimated by the City, or there are other indications of error so clear, as to reasonably justify the conclusion or that acceptance of the Offer would be unfair to the Offeror or to other bona fide Offerors, in which case the City shall be entitled to reject the Offer. The City may extend the time for response for good cause shown.
- E.** Verification. If the Offeror verifies its Offer, the City must consider the Offer as originally submitted. However, in fairness to other Offerors, verification does not preclude the City from rejecting the Offer if it is clear that a mistake has been made and the City determines the intended Offer is not evident.
- F.** Minor Informality. If the Offeror verifies its Offer, and the City sees no reason for rejection, the City may waive or permit the Offeror to correct a mistake that constitutes a minor informality. A minor informality is a matter of form, rather than substance, that is evident on the face of the Offer and which can be corrected or waived without prejudice to the public or other Offerors. Examples of a minor informality include a failure to:

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1. Return the correct number of Signed Offers or the correct number of other documents required by the Solicitation Document;
  2. Sign the Offer in the designated block, provided, however, that a Signature appears elsewhere in the Offer that evidences the Offeror's intent to be bound; or
  3. Acknowledge receipt of an Addendum to the Solicitation Document, provided it is clear on the face of the Offer that the Offeror received the Addendum and intended to be bound by its terms.
- G.** Clerical Mistakes. If the Offeror does not verify its Offer, but contends a clerical mistake caused a different Offer than intended to be submitted, or verifies the Offer but contends a clerical mistake should be corrected within a portion of the Offer, the City may in its discretion permit correction if the conditions of this section are met.
1. Only clerical mistakes can be corrected. A clerical mistake is not a mistake of judgment. Examples of clerical mistakes include typographical mistakes, errors in extending unit prices, transposition errors, arithmetical errors, misplacement of a decimal point, and instances in which the intended correct price is evident by simple arithmetic calculations.
  2. If correction of the Offer would result in displacement of one or more lower Offers submitted by other Offerors, the correction is permitted if, and only if, both the existence of the mistake and the Offer actually intended are ascertainable from the Solicitation Document and the Offer itself.
  3. If correction of the Offer would not result in the displacement of one or more lower Offers submitted by other Offerors, correction may be permitted if the Offeror provides the City with clear and convincing supporting evidence of the mistake and intended Offer within two business days after the City's initial notification of the mistake. The City may extend the time for response for good cause shown.
    - a. Supporting evidence shall include all pertinent evidence, such as the Offeror's file copy of its Offer, the original worksheets and other data used in preparing the Offer, subcontractors' quotations, if any, and any other evidence that establishes the existence of a clerical mistake, the manner in which it occurred and the Offer actually intended.
    - b. The closer the corrected Offer is to the next lowest Offer the greater the need for the City to be sure that it has clear and convincing

evidence that permits a correction to ensure the integrity of the competitive process.

**5.33.495 Time for City Acceptance.**

(Amended by Ordinance No. 189878, effective March 4, 2020.)

- A. An Offeror's Offer is a Firm Offer, irrevocable, valid and binding on the Offeror for not less than 60 Days from Closing unless otherwise specified in the Solicitation Document. After 60 Days the Offer shall lapse unless extended. The extension may occur after the expiration of the 60-Day period.
- B. An Offer may be extended beyond 60 Days if the Offeror and the City so agree. If agreement is reached the time period for extension shall be reduced to Writing and the Offer will remain valid, irrevocable and binding on the Offeror for the agreed-upon extension period.

**5.33.500 Responsibility of Offerors.**

(Amended by Ordinance Nos. 183445, 185898, 187373 and 189878, effective March 4, 2020.)

- A. Contracts shall be Awarded only to Responsible Offerors. Pursuant to ORS 279B.110, the City shall consider whether the Offeror has:
  - 1. Available the appropriate financial, material, equipment, facility and personnel resources and expertise, necessary to indicate the capability of the prospective Offeror to meet all Contractual responsibilities;
  - 2. Has completed previous contracts of a similar nature with a satisfactory record of performance. A "satisfactory record of performance" means that to the extent the costs associated with and time available to perform a previous contract were within the Offer's control, the Offeror stayed within the time and budget allotted for the Procurement and otherwise performed the contract in a satisfactory manner. The City should carefully scrutinize an Offeror's records of contract performance if the Offeror is or recently has been materially deficient in contract performance. In reviewing the Offeror's performance, the City should determine whether the Offeror's deficient performance was expressly excused under the terms of the contract, or whether the Offeror took appropriate corrective action. The City may review the Offeror's performance on both private and public contracts in determining the Offeror's record of contract performance. The City shall document the record of performance of a prospective Offeror if the City finds the prospective Offeror non-Responsible under this Paragraph;

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- 3.** A satisfactory record of integrity. An Offeror may lack integrity if the City determines the Offeror demonstrates a lack of business ethics such as violation of state environmental laws or false certifications made to the City. The City may find an Offeror non-Responsible based on lack of integrity of any Person having influence or control over the Offeror (such as key employees of the Offeror has the authority to significantly influence the Offeror's performance of the Contractor or a parent company, predecessor or successor Person.) The standards for Debarment under ORS 279B.130 may be used to determine an Offeror's integrity. The City may find an Offeror non-Responsible based on previous convictions of offenses related to obtaining or attempting to obtain a contract or subcontract or in connection with the Offeror's performance of a contract or subcontract. The City shall document the record of integrity of a prospective Offeror if the City finds the prospective Offeror non-Responsible under this Paragraph;
  - 4.** Qualified legally to Contract with the City. Procurement Services may determine that such an Offeror is not legally qualified if:

    - a.** The Offeror does not have a business tax registration account with the City; or
    - b.** The Offeror failed to make payments required by Title 7 of the City Code and has failed to make appropriate payment arrangements with the Revenue Division of the Bureau of Revenue and Financial Services within seven (7) Days of the receipt of a Bid or Proposal, unless the City waives that requirement and decides to pursue collection through retention of Contract funds, or through other means; or
    - c.** The Offeror failed to submit a signed affidavit that attests, under penalty of perjury, that the Offeror has complied with the tax laws of the State of Oregon and the City of Portland.
  - 5.** Supplied all necessary information in connection with the inquiry concerning responsibility. If a prospective Offeror fails to promptly supply information requested by the City concerning responsibility, the City shall base the determination of responsibility upon any available information or may find the prospective Offeror non-Responsible;
  - 6.** Not been debarred by the City under ORS 279B.130, Sections 5.33.530 or 5.33.540.
- B.** In the event the City determines an Offeror is not Responsible it shall prepare a Written determination of non-responsibility as required by ORS 279B.110.



- C. Form of Business Entity. For purposes of this rule, the city may investigate any Person submitting an Offer. The investigation may include that Person's officers, directors, owners, affiliates, or any other Person acquiring ownership of the Person to determine application of this rule or to apply the Debarment provisions of ORS 279B.130.

**5.33.505 Qualified Products Lists.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A. City Bureaus may develop and maintain a qualified products list when it is necessary or desirable to test or examine goods before initiating a Procurement. "Goods" includes products that have associated or incidental service components, such as supplier warranty obligations or maintenance service programs.
- B. When any Bureau begins the initial development of a qualified products list, the Chief Procurement Officer shall give public notice in accordance with Section 5.33.300 of the opportunity for potential Contractors, sellers or suppliers to submit goods for testing and examination to determine their acceptability for inclusion on the list.
  - 1. The Chief Procurement Officer may also solicit in Writing representative groups of potential Contractors, sellers or suppliers to submit goods for the testing and examination.
  - 2. Any potential Contractor, seller, or supplier, even though not solicited, may offer its goods for consideration.
- C. The determination of whether a particular good satisfies the Bureau's needs is entirely within the Bureau's sole discretion.

**5.33.510 Prequalification of Prospective Offerors; Pre-Negotiation of Contract Terms and Conditions.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A. The City may Prequalify prospective Offerors as follows:
  - 1. The Chief Procurement Officer shall determine the types of forms, the method of submitting applications and the information required to be a prequalified Offeror for Goods or Services.
  - 2. Prospective Offerors shall submit the application on the form required by the Chief Procurement Officer.
  - 3. Upon receipt of the application, the City shall investigate the prospective Offeror as necessary to determine whether the Prequalification should be granted.

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4. If an early Prequalification decision is requested, the City shall make that decision in less than 30 Days, if practicable.
  5. The Chief Procurement Officer shall notify prospective Offerors whether or not they have been prequalified. If a prospective Offeror is not prequalified, the Chief Procurement Officer shall specify which of the standards of responsibility listed in Section 5.33.500 the prospective Offeror failed to meet.
- B.** If the City determines that a prequalified Offeror is no longer qualified the Chief Procurement Officer may revoke or revise the Prequalification upon reasonable notice, except that a revocation or revision is invalid as to any Contract for which an advertisement for Bids or Proposals has already been issued.
- C.** Notwithstanding the prohibition against revocation of Prequalification generally in ORS 279B.120(3), the City may determine that a prequalified Offeror is not Responsible for any given Contract prior to Contract Award.
- D.** The City may pre-negotiate some of all Contract terms and conditions including prospective Proposer Contract forms such as license agreements, maintenance and support agreements, or similar documents for use in future Procurements. Such pre-negotiation of Contract terms and conditions (including prospective Proposer forms) may be part of the prequalification process of a Proposer in Subsection A. or the pre-negotiation may be a separate process and not part of a prequalification process. Unless required as part of the prequalification process, the failure of the City and the prospective Proposer to reach agreement on pre-negotiated Contract terms and conditions does not prohibit the prospective Proposer from responding to Procurements. The City may agree to different pre-negotiated Contract terms and conditions with different prospective Proposers. When the City has pre-negotiated different terms and conditions with Proposers or when permitted, Proposers offer different terms and conditions, the City may consider the terms and conditions in the Proposal evaluation process.

**5.33.530 Debarment of Prospective Offerors.**

(Amended by Ordinance Nos. 181547 and 185898, effective February 20, 2013.)

- A.** The City may Debar prospective Offerors pursuant to ORS 279B.130 and this rule.
- B.** The City may debar a prospective Offeror from consideration for City Contracts for a period up to three (3) years if:
  1. The Offeror has been convicted of a criminal offense as an incident in obtaining or attempting to obtain a public or private Contract or Subcontract or in the performance of such Contractor or Subcontract;

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2. The Offeror has been convicted under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty that currently, seriously and directly affects the Offeror's responsibility as a Contractor;
  3. The Offeror has been convicted under state or federal antitrust statutes;
  4. The Offeror has committed a violation of a Contract provision that is regarded by the City or the Construction Contractors Board to be so serious to justify disqualification. A violation may include, but is not limited to, a failure to perform the terms of a Contract or an unsatisfactory performance in accordance with the terms of the Contract. However, a failure to perform or an unsatisfactory performance caused by acts beyond the control of the Contractor may not be considered to be a basis for debarment; or
  5. The Offeror does not carry workers' compensation or unemployment insurance as required by Oregon Law.
- C. The City may debar a prospective Offeror as follows:
1. Issue a Written decision that states the reasons for the action taken and informs the Offeror of the appeal rights under ORS 279B.435 and Section 5.33.760; and
  2. Mail or immediately furnish a copy of the decision to the debarred Offeror.
- D. Notwithstanding the limitation on the term for Debarment in ORS 279B.130(1)(b) and this rule, the City may determine that a previously Debarred Bidder or Proposer is not Responsible for a given Contract prior to Contract Award.
- E. Imputed Knowledge. The City may attribute improper conduct of a Person or its affiliate having a Contract with a prospective Offeror to the prospective Offeror for purposes of debarment where the impropriety occurred in connection with the Person's duty for or on behalf of, or with the knowledge, approval, or acquiescence of, the prospective Offeror.
- F. Limited participation. The City may allow a Debarred Person to participate in solicitations and Contracts on limited basis during the Debarment period upon Written determination that participation is Advantageous to the City. The determination shall specify the factors on which it is based and define the extent of the limits imposed.

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**5.33.540 State of Oregon COBID Certified firms Prohibited Conduct; Sanctions; Appeals.**

(Replaced by Ordinance No. 187974; amended by Ordinance No. 189878, effective March 4, 2020.)

- A.** If the City determines at any time during the term of a contract that a contractor to which the City awarded the contract on the basis described in ORS 279A.107 (1), or a subcontractor to which the contractor awarded a subcontract in connection with the contract on the basis described in ORS 279A.107 (1), is no longer certified, the City may:
1. Terminate the contract;
  2. Require the contractor to terminate the subcontract; or
  3. Exercise any of the remedies for breach of contract that are reserved in the contract.
- B.** Notwithstanding the scope of ORS 200.055 et seq., Section 5.33.540 applies to all projects, including, but not limited to, contracts, loans, grants, development agreements, and any other City-owned, City-sponsored or City-funded project.
- C.** The City may investigate complaints alleging one or more of the following violations of ORS 200.065:
1. Fraudulently obtaining or retaining certification as COBID Certified Firm;
  2. Attempting to fraudulently obtain or retain certification as a COBID Certified Firm;
  3. Aiding another person to fraudulently obtain or retain certification as a COBID Certified Firm;
  4. Aiding another person to attempt to fraudulently obtain or retain certification as a COBID Certified Firm; or
  5. Knowingly making a false claim that any person is qualified for certification or is certified under ORS 200.055 (Certification of COBID Certified Firm) for the purpose of gaining a contract or subcontract or other benefit.
- D.** When the City investigates a complaint that a person has violated ORS 200.065, the City may require any additional information, and through the City Attorney's Office, administer oaths, take depositions and issue subpoenas to compel witnesses to attend and to produce books, papers, records, memoranda or other information necessary for the City to complete its investigation. If a person fails to comply with any subpoena that the City issues under its investigation. If a person fails to comply

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with any subpoena that the City issues under ORS 200.065 or refuses to testify on any matter on which a person may lawfully be interrogated, the City shall follow the procedure provided in ORS 183.440 to compel compliance.

- E.** The City may issue the following sanctions against any person for violating ORS 200.065:
1. Withholding payment;
  2. Suspending or terminating a public contract;
  3. Impose a civil penalty not to exceed 10 percent of the contract or subcontract price or \$5,000, whichever is less, for each violation; and
  4. Disqualifying for up to 3 years from submitting a bid or proposal for, or receiving an award of, a public contract.
- F.** The City may also disqualify any person from bidding or participating in a public contract for a period of up to 3 years;
1. Who under oath during the course of an investigation admits to violating ORS 200.065(1) or (2); or
  2. Upon notice of a finding of fraudulent certification by the Certification Office for Business Inclusion and Diversity or other public contracting agency.
- G.** Any bidder, proposer, contractor or subcontractor on a City contract that knowingly commits any of the following acts shall have its right to submit a bid or proposal for, or receive an award of, a City contract in the future suspended under ORS 200.075:
1. Entering into any agreement to represent that a COBID Certified Firm certified under ORS 200.055 will perform work or supply material under a public improvement contract without the knowledge and consent of the disadvantaged, minority, woman, service-disabled veteran, or emerging small business enterprise.
  2. Exercising or permitting another bidder, proposer, contractor or subcontractor to exercise management and decision making control over the internal operations of a COBID Certified Firm other than the bidder's, proposer's, contractor's or subcontractor's own business enterprise. As used in this paragraph, "internal operations" does not include normal scheduling, coordination, execution or performance as a subcontractor on a public contract.

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3. Using a disadvantaged, minority, woman, service-disabled veteran, or emerging small business enterprise to perform a public contract or subcontract or to supply material under a public contract to meet an established goal or requirement if the COBID Certified Firm does not perform a Commercially Useful Function in carrying out its responsibilities and obligations under the public contract.
  4. Failing to perform a Commercially Useful Function in performing a public contract or subcontract or in supplying material to a contractor or subcontractor that is performing a public contract if the bidder, proposer, contractor or subcontractor is presented as a COBID Certified Firm to meet an established goal or requirement.
- H.** The suspension shall be one year for a first violation, 3 years for a second violation and 5 years for a third violation. Each violation must remain on record for 5 years. After 5 years the City may not consider the violation in reviewing future violations.
- I.** Prior to suspending, disqualifying or otherwise sanctioning a person under Section 5.33.540, the City shall provide written notice to the person of a proposed sanction under ORS 200.065 or ORS 200.075, served personally or by registered or certified mail, return receipt requested. This notice shall include:
1. That the City intends to sanction;
  2. The effective date and period of the sanction, if applicable;
  3. The reason(s) for the sanction; and
  4. That the person has the right to request a hearing before the Code Hearings Officer in accordance with Section 3.130.020.
- J.** The hearing shall be conducted in accordance with Chapter 22.10 and any administrative rules governing appeals to the Code Hearings Officer.

**5.33.610 Offer Evaluation and Award.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A.** General. If a Contract is Awarded, the City shall Award the Contract to the Responsible Offeror submitting the lowest, Responsive Bid. The City may Award by item, groups of items or the entire Offer provided such Award is consistent with the Solicitation Document and in the public interest.
- B.** Multiple Items. An Invitation to Bid or Request for Proposal may call for pricing of multiple items of similar or related type with Award based on individual line item, group total of certain items, a “market basket” of items representative of the total requirement, or grand total of all items.

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- C.** All or none Offers. All or none Bids or Proposals may be accepted if the evaluation shows an all or none Award to be the lowest cost of those submitted.
- D.** Clarification of Offers. After Opening, discussions may be conducted with apparent Responsive Offerors for the purpose of clarification to assure full understanding of the Offer. All Offers, in the City's sole judgment, needing clarification shall be accorded such an opportunity. Clarification of any Offer must be documented in Writing by City and shall be included in the file.
- E.** Multiple Awards - Bids. If a Solicitation permits the Award of multiple Contracts, the City shall specify the criteria it shall use to choose from the multiple Contracts when purchasing Goods and Services. The criteria shall require the City to purchase the lowest priced goods or services available from the multiple Contracts. Multiple Awards shall not be made if a single Award will meet the City's needs without sacrifice of economy or service. A multiple Award may be made if Award to two or more Offerors of similar products is necessary for adequate availability, delivery, and service or product compatibility. Awards may not be made for the purpose of dividing the Solicitation, or to allow for user preference unrelated to utility or economy. A notice to potential Offeror that multiple Contracts may be Awarded for any Solicitation shall not preclude the Award of a single Contract for such Solicitation.
- F.** Multiple Awards – Proposals. If a Solicitation permits the Award of multiple Contracts, the City shall specify the criteria it shall use to choose from the multiple Contracts when purchasing Goods and Services. The criteria shall require the City to procure the goods or services that are most Advantageous to the City available from the multiple Contracts. Multiple Awards shall not be made if a single Award will meet the City's needs without sacrifice of economy or service. A multiple Award may be made if Award to two or more Offerors of similar Goods or Services is necessary for adequate availability, delivery, and service or product compatibility. Multiple Awards may not be made for the purpose of dividing the Solicitation, or to allow for user preference unrelated to obtaining the most Advantageous Contract. A notice to potential Offeror that multiple Contracts may be Awarded for any Solicitation shall not preclude the Award of a single Contract for such Solicitation.
- G.** Partial Awards. If after evaluation of competitive Offers, the City finds that a qualified Offer has been received for only parts of the requirements of the Solicitation:
- 1.** A Contract may be Awarded for the parts of the Solicitation for which qualified Offers have been received.

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2. All Offers may be rejected and a new Invitation to Bid or Request for Proposals on the same or revised terms, conditions and Specifications may be issued.
- H.** City Evaluation. The City shall evaluate an Offer only as set forth in the Solicitation Document and in accordance with applicable law. The City shall not evaluate an Offer using any other requirement or criterion.
- I.** Evaluation of Bids. The City shall evaluate Bids as set forth in ORS 279B.055(6)(a).
1. In evaluating Bids, the City shall apply the Contract preferences set forth in Sections 5.33.625 through 5.33.635.
  2. Low, Tied Offers. Low, tied Offers shall be resolved pursuant to Section 5.33.625.
- J.** Evaluation of Proposals. The City shall evaluate Proposals as set forth in 279B.060(6) and Section 5.33.210 and in the event of low, tied Proposals, in accordance with Section 5.33.625.
- K.** Recycled Materials. In determining the most Advantageous Responsive Proposal the City shall give preference for recycled materials as set forth in ORS 279A.125 and Section 5.33.635.

**5.33.620 Negotiation With Offerors Prohibited.**

The City shall not negotiate with any Offeror in regard to the acquisition of Goods and Services if the Procurement was pursuant to an Invitation to Bid. This rule does not prevent the City from seeking a clarification of an Offer, provided the clarification does not change the Offer. This rule does not prohibit negotiation with a Proposer in response to a Request for Proposals provided the requirements of these rules have been met.

**5.33.625 Contract Preferences.**

(Amended by Ordinance Nos. 185065 and 185898, effective February 20, 2013.)

- A.** Award When Offers Identical. Under ORS 279A.120, when the City receives Offers identical in price, fitness, availability and quality, and chooses to Award a Contract, the City shall Award the Contract based on the following order of precedence:
1. The City shall Award the Contract to the Offeror among those submitting identical Offers who is offering Goods or Services, or both, are manufactured, produced or to be performed in Oregon.
  2. If two or more Offerors submit identical Offers, and they all offer Goods or Services, or both, manufactured or produced in Oregon, the City shall



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Award the Contract by drawing lots among the identical Offers offering Goods or Services that are manufactured, produced or to be performed in Oregon. The City shall provide to the Offerors who submitted the identical Offers notice of the date, time and location of the drawing of lots and an opportunity for those Offerors to be present when the lots are drawn.

3. If the City receives identical Offers, and none of the identical Offers offer Goods or Services, or both, that are manufactured, produced or to be performed in Oregon, then the City shall Award the Contract by drawing lots among the identical Offerors. The City shall provide to the Offerors that submitted the identical Offers notice of the date, time and location of the drawing of lots and an opportunity to be present when the lots are drawn.

**B.** Determining if Offers are Identical. The City shall consider Offers identical in price, fitness, availability and quality as follows:

1. Bids received in response to an Invitation to Bid issued under Section 5.33.200 or ORS 279C.335 are identical in price, fitness, availability and quality if the Bids are Responsive, and offer the Goods or Services described in the Invitation to Bid at the same price.
2. Proposals received in response to a Request for Proposals issued under Section 5.33.210, are identical in price, fitness, availability and quality if they are Responsive and achieve equal scores when scored in accordance with the evaluation criteria set forth in the Request for Proposals.
3. Proposals received in response to a Special Procurement conducted pursuant to Section 5.33.220 are identical in price, fitness, availability and quality if, after completing the Contracting procedure approved by the City if the City determines, in Writing, that two or more Proposals are equally Advantageous to the City.
4. Offers received in response to an intermediate Procurement conducted pursuant to ORS 279B.070 are identical if the Offers equally best serve the interests of the City in accordance with ORS 279B.070(4).

**C.** Determining if Goods or Services are Manufactured or Produced in Oregon. In applying Subsection 5.33.625 A., the City shall determine whether a Contract is predominantly for Goods or Services are manufactured, produced or performed in Oregon. The City may request in a Solicitation Document, following Closing, or at any other time determined appropriate by the City, any information the City may need to determine if the Goods or Services are manufactured or produced in Oregon. The City may use any reasonable criteria to determine if Goods or Services are manufactured or produced in Oregon, provided that the criteria reasonably

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relate to that determination, and provided that the same criteria apply equally to each Offeror.

- D.** Procedure for Drawing Lots. When this Rule calls for the drawing of lots, the City shall draw lots by a procedure that affords each Offeror subject to the drawing a substantially equal probability of selection, and that does not allow the person making the selection the opportunity to manipulate the drawing of lots to increase the probability of selecting one Offeror over another.
- E.** Discretionary Preference and Award. Under ORS 279A.128, the City may provide, in a Solicitation Document for Goods or Services, a specified percentage preference of not more than ten percent for Goods fabricated or processed entirely in Oregon or Services performed entirely in Oregon. When the City provides for a preference under this Section, and more than one Offeror qualifies for the preference, the City may give a further preference to a qualifying Offeror that resides in or is headquartered in Oregon. The City may establish a preference percentage higher than ten percent if the Chief Procurement Officer makes a written determination that good cause exists to establish the higher percentage and explains the City's reasons and evidence of good cause. The City may not apply the preferences described in this Paragraph in a Procurement for emergency work, minor alterations, ordinary repairs or maintenance of public improvements, or construction work that is described in ORS 279C.320.

**5.33.630 Reciprocal Preferences.**

(Amended by Ordinance Nos. 181547 and 185898, effective February 20, 2013.)

- A.** When evaluating Bids pursuant to Section 5.33.610, the City shall add a percentage increase to the Bid of a Nonresident Bidder equal to the percentage, if any, of the preference that would be given to that Bidder in the state in which the Bidder resides.
- B.** The City shall rely on the list prepared and maintained by the Oregon Department of Administrative Services pursuant to ORS 279A.120(4) to determine both:
  - 1.** whether the Nonresident Bidder's state gives preference to in-state Bidders, and
  - 2.** the amount of such preference.

**5.33.635 Contract Preferences: Recycled Materials.**

(Amended by Ordinance No. 185898, effective February 20, 2013.)

- A.** Notwithstanding provisions of law requiring the City to Award a Contract to the lowest Responsible Bidder or best Proposer or provider of a quotation, and subject to Subsection 5.33.635 B., the City shall give preference to the Procurement of goods manufactured from recycled materials.

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- B.** In comparing goods from two or more Bidders or Proposers, and at least one Bidder or Proposer offers goods manufactured from recycled materials, and at least one Bidder or Proposer does not, the City shall select the Bidder or Proposer offering goods manufactured from recycled materials if each of the following four (4) conditions exists:
1. The recycled product is available;
  2. The recycled product meets applicable standards;
  3. The recycled product can be substituted for a comparable non-recycled product; and
  4. The recycled product's costs do not exceed the costs of non-recycled products by more than five (5) percent, or a higher percentage if a Written determination is made by the City and set forth in the Solicitation Document. For purposes of making the foregoing determination, the City shall consider the costs of the goods following any adjustments the City makes to the price of the goods for purposes of evaluation pursuant to Section 5.33.610.
- C.** For the purposes of this Section, the City shall determine if goods are manufactured from recycled materials in accordance with standards established by the City.

**5.33.640 Rejection of all or part of an Offer.**

(Amended by Ordinance Nos. 183445, 185898 and 189878, effective March 4, 2020.)

- A.** Investigation. The City may, but is not required to, seek clarification of an Offer to determine whether it is responsive and make such investigation as necessary to determine whether an Offeror is responsible. The investigation may include:
1. An inquiry into the responsibility of the Offeror's proposed Subcontractor and suppliers;
  2. Requiring an Offeror to demonstrate its financial ability to perform the Contract. In exercising this right, the City shall notify the apparent successful Offeror in Writing to submit such documentation as the City deems necessary to complete a thorough evaluation of the Offeror's financial ability;
  3. Obtaining any credit report information that the City deems necessary to investigate and evaluate whether the Offeror is financially responsible. By submitting an Offer, the Offeror authorizes the City to investigate its credit, to obtain credit reports and to cooperate in the event that credit information is requested by the City.

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4. Any action necessary to ascertain whether the Offeror is responsible.

**B. Grounds for Rejection.**

1. The City may reject any Offer upon finding that to accept the Offer may impair the integrity of the Solicitation process or that rejecting the Offer is in the public interest.
2. The City may reject any Offer, in whole or in part, when rejection is in the best interest of the City as determined by the City. If so, the reasons for rejection shall be made part of the Solicitation file.
3. The City shall reject an Offer as nonresponsive upon the City's finding that the Offer:
  - a. is contingent upon the City's acceptance of terms and conditions (including Specifications) that differ from the Solicitation Document;
  - b. takes exception to terms and conditions (including Specifications) unless the Solicitation Document specifically allows such exceptions in order to encourage innovative approaches and ideas;
  - c. attempts to prevent public disclosure of matters in contravention of the terms and conditions of Solicitation Document or in contravention of applicable law;
  - d. offers Goods or Services that fail to meet the Specifications of the Solicitation Document;
  - e. is late;
  - f. is not in substantial compliance with the Solicitation Documents;
  - g. is not in substantial compliance with all prescribed public Solicitation procedures;
  - h. contains a deviation that, if the Offer was accepted, would give the Offeror a substantial advantage or benefit not shared by other Offerors; or
  - i. has failed to comply with the programs adopted pursuant to PCC Section 5.33.900.
4. The City shall reject an Offer upon the City's finding that the Offeror:

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- a. Has not been prequalified under ORS 279B.120 and the City required mandatory Prequalification;
  - b. Has been debarred as set forth in ORS 279B.130;
  - c. Has not met the requirements of ORS 279A.105 regarding subcontracting to COBID Certified Firms when required to do so by the City;
  - d. Has not submitted properly executed Bid or Proposal security as required by the Solicitation Document;
  - e. Has failed to provide the certification of nondiscrimination required by Subsection 5.33.640 D.; or
  - f. Is not a Responsible contractor pursuant to Section 5.33.500 and state law.
- C. Form of Business. For purposes of this rule, the City may investigate any Person submitting an Offer. The investigation may include that Person's officers, directors, owners, affiliates, or any other Person acquiring an ownership interest of the Person to determine application of this rule or to apply the Debarment provisions of ORS 279B.130.
- D. Certification of Non-Discrimination. The Offeror shall certify and deliver to the City the Written certification required by Subsection 5.33.075 B.3.

**5.33.645 Rejection of All Offers.**

(Amended by Ordinance No. 185898, effective February 20, 2013.)

- A. Rejection. The City may reject all Offers for good cause upon the City's Written finding it is in the public interest to do so. The City shall notify all Offerors of the rejection of all Offers, along with the good cause justification and finding.
- B. Criteria. The City may reject all Offers upon a Written finding that:
  - 1. The content of or an error in the Solicitation Document, or the Solicitation process unnecessarily restricted competition for the Contract;
  - 2. The price, quality or performance presented by the Offerors is too costly or of insufficient quality to justify acceptance of the Offer;
  - 3. Misconduct, error, or ambiguous, conflicting or misleading provisions in the Solicitation Document threaten the fairness and integrity of the competitive process;

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4. Causes other than legitimate market forces threaten the integrity of the competitive Solicitation process. These causes include, but are not limited to, those that tend to limit competition such as restrictions on competition, collusion, corruption, unlawful anti-competitive conduct, and inadvertent or intentional errors in the Solicitation Document;
5. The City cancels the Solicitation in accordance with Section 5.33.660; or
6. Any other circumstance indicating that Awarding the Contract would not be in the public interest.

**5.33.650 Notice of Intent to Award.**

(Amended by Ordinance No. 185898, effective February 20, 2013.)

- A. **Applicability:** This section applies to Awards of a Contract, except for small Procurements pursuant to Section 5.33.180, intermediate Procurements pursuant to Section 5.33.190, sole source Procurements pursuant to Section 5.33.120, Emergency Procurements pursuant to Section 5.33.130 or a Special Procurement pursuant to Section 5.33.220.
- B. **Notice:** The City shall provide Written notice of Intent to Award a Contract to all Offerors. If the Solicitation was posted by Electronic means, however, the City may post the Intent to Award Electronically in the same manner as the Solicitation. The Notice shall be posted at least seven (7) Days before the Award of a Contract, unless the City determines that circumstances require prompt execution of the Contract. The City shall document the specific reasons for the shorter notice period in the Solicitation file.
- C. The City's Award shall not be final until the latest of the following three (3) dates:
  1. Seven (7) Days after the date of notice of intent to Award, unless the Solicitation Document provided a different period for protest of Contract Award. For purposes of this section, the Day on which the Notice is posted from which the seven Days shall begin to run shall not be included, but the last Day of the period shall be included;
  2. The City provides a Written response to all timely-filed protests that denies the protest and affirms the Award; or
  3. Upon the conclusion of any appeal pursuant to Section 5.33.740.

**5.33.660 Cancellation, delay or suspension of Solicitation.**

(Amended by Ordinance No. 189878, effective March 4, 2020.)

- A. **Cancellation in the Public Interest.** The City may cancel a Solicitation or Procurement described in a Solicitation in whole or in part prior to Contract

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Execution when cancellation is in the best interest of the City as determined by the City.

- B.** Delay or Suspension. Any Solicitation or Procurement desired in a Solicitation may be delayed or suspended when the delay or suspension is in the best interest of the City as determined by the City.
- C.** Costs. The City is not liable to any Offeror for costs, expenses or losses caused by the cancellation, delay or suspension.
- D.** Notice. If the City cancels, delays or suspends a Solicitation prior to Opening, the City shall provide notice of cancellation in the same manner that the City initially provided notice of the Solicitation. Such notice of cancellation shall:
  - 1.** Identify the Solicitation;
  - 2.** Briefly explain the reason for cancellation; and
  - 3.** If appropriate, explain that an opportunity will be given to compete on any Re-Solicitation.
- E.** Notice of Cancellation After Opening. If the City cancels a Procurement or Solicitation after Opening, the City shall provide Written notice of Cancellation to all Offerors who submitted Offers.

**5.33.670 Disposition of Offers if Solicitation Canceled.**

(Amended by Ordinance No. 184403, effective February 2, 2011.)

- A.** Prior to Offer Opening. If the City cancels a Solicitation prior to Offer Opening, the City will return all Offers it received to Offerors unopened, provided the Offeror submitted its Offer in a hard copy format with a clearly visible return address. If there is no return address on the envelope, the City will open the Offer to determine the source and then return it to the Offeror.
- B.** After Offer Opening. If the City rejects all Offers, the City will retain all such Offers as part of the City's Solicitation file. If a Request for Proposals is cancelled after Proposals are received, the City may return a Proposal to the Proposer that submitted it. The City shall keep a list of returned Proposals in the Solicitation file.

**5.33.675 Documentation of Award.**

(Amended by Ordinance No. 185898, effective February 20, 2013.)

- A.** Basis of Award. After Award, the City shall make a record showing the basis for determining the successful Offeror part of the City's Solicitation file.
- B.** Contents of Award Record. The City's record shall include

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1. Bids.
  - a. Completed Bid tabulation sheet; and
  - b. Written justification for any rejection of lower Bids.
2. Proposals.
  - a. The completed evaluation of the Proposals;
  - b. Written justification for any rejection of higher scoring Proposals or for failing to meet mandatory requirements of the Request for Proposal; and
  - c. If the City permitted negotiations in accordance with Section 5.33.211, the City's completed evaluation of the initial Proposals and the City's completed evaluation of final Proposals.

**5.33.685 Availability of Award Decisions.**

(Amended by Ordinance Nos. 185898 and 189878, effective March 4, 2020.)

- A. Contract Documents. To the extent required, the City shall deliver to the successful Offeror, a Signed purchase order, Price Agreement, or other Contract document(s), as applicable.
- B. Notification to Unsuccessful Offerors. A Person may obtain tabulations of Awarded Bids or evaluation summaries of Proposals for a minimal charge, in person or by submitting to the City a Public Records Request accompanied by payment if payment has been determined to be necessary. Such request shall provide the Solicitation Document number and enclose a self-addressed, stamped envelope.
- C. Availability of Solicitation Files. Subject to Section 5.33.200 and ORS 279B.060 the City shall make completed Solicitation files available for public review at the City.
- D. The City may withhold from disclosure to the public materials included in a Proposal that are exempt or conditionally exempt from disclosure under ORS 192.501 or ORS 192.502 including trade secrets, as defined in ORS 192.501 and information submitted to a public body in confidence, as described in ORS 192.502.
- E. Copies from Solicitation Files. Subject to Section 5.33.200 and ORS 279B.060 any Person may obtain copies of material from Solicitation files upon submitting a Public Records Request and payment of a reasonable copying charge.



**5.33.690 Performance and Payment Security; Waiver.**

(Amended by Ordinance No. 183445, effective January 6, 2010.)

- A.** Public Contracts. The Chief Procurement Officer has discretion to require the submission of a performance bond, a payment bond, or both in regard to any contracts subject to this Chapter in any amount not to exceed the Contract Price. If so, the requirement shall be expressly set forth in the Solicitation Document.
- B.** Requirement for Surety Bond. If required, the City shall accept only a performance bond and payment bond furnished by a surety company authorized to do business in Oregon and who is duly listed in the United States Treasury List as published in the Federal Register or is otherwise approved by the City Attorney each in the amount of 100 percent of the Contract price unless otherwise specified in the Solicitation Document or such substitute security is approved by the City Attorney's office. The surety bond shall have the company's sealed affixed to it, be signed by the surety's Attorney in Fact, and have attached the Power of Attorney for the Attorney in Fact. The City Attorney may waive the requirement of the corporate seal.
- C.** Time for Submission. The apparent successful Offeror must furnish the required performance and payment security within 10 Days after notification by the City. If the Offeror fails to furnish the performance security as requested, the City may reject the Offer and Award the Contract to the Responsible Bidder with the next lowest Responsive Bid or the Responsible Proposer with the next highest-scoring Responsive Proposal, and, at the City's discretion, the Offeror shall forfeit its Bid or Proposal Security.

**5.33.695 Notification to State of Nonresident Contractor.**

If the Contract Price exceeds \$10,000 and the Contractor is a Nonresident Contractor, the Contractor shall promptly report to the Oregon Department of Revenue on forms provided by the Department of Revenue, the Contract Price, terms of payment, Contract duration and such other information as the Department of Revenue may require before final payment can be made on the Contract. A copy of the report shall be forwarded to the City. The City shall satisfy itself that the above requirements have been complied with before it issues final payment on the Contract.

**5.33.700 Protests and Judicial Review of Special Procurements.**

(Amended by Ordinance Nos. 183445, 184403 and 185898, effective February 20, 2013.)

- A.** An Affected Person may protest the City's approval of a Special Procurement or a class Special Procurement.
- B.** Method of Protest

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1. Time: A Written protest of the City's approval shall be provided to the Chief Procurement Officer not later than seven (7) Days after the approval of the Special Procurement or class Special Procurement unless a different time period is provided in the Notice. The Chief Procurement Officer shall not consider a protest submitted after the timeline established for submitting such protest under this rule.
  2. Contents. The Written protest must include:
    - a. Sufficient information to identify the Request that is the subject of the protest;
    - b. A detailed statement of all the legal and factual grounds for the protest;
    - c. Evidence or supporting documentation that supports the grounds on which the protest is based;
    - d. A description of the resulting harm to the Affected Person; and
    - e. The relief requested.
- C. Required City Response.** The City shall take the following actions, as appropriate:
1. The City shall inform the Affected Person in Writing if the protest was not timely filed;
  2. The City shall inform the Affected Person if it failed to meet the requirements of Subsection 5.33.700 B.2. and the reasons for that failure;
  3. If the protest was timely filed and provides the information required by Subsection 5.33.700 B.2., the City shall issue a decision in Writing and provide that decision to the Affected Person within a reasonable period of time unless a Written determination is made by the City that circumstances exist that require a shorter time limit.
  4. If the City denies the protest, it shall inform the Affected Person if the decision is final or whether the Chief Procurement Officer has decided to refer the protest to the Purchasing Board of Appeals or City Council.
- D. Optional City Response:** In addition to the requirements of Subsection 5.33.700 C., the Chief Procurement Officer may do any of the following:
1. Agree with the protest and take any corrective action necessary;

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2. Issue a Written response to the protest and provide that decision to the Affected Person;
3. Refer the protest and any response to the Board of Appeals for decision;
4. Refer the protest and any response to the City Council for decision; or
5. Take any other action that is in the best interest of the City while giving full consideration to the merits of the protest.

**E. Judicial Review.**

1. An Affected Person may not seek judicial review of the City Council's approval of a Special Procurement or Class Special Procurement unless it has complied fully with the Protest requirements of this section and exercised all administrative appeal rights.
2. Judicial review is not available if the Request is denied by the City Council, Board of Appeals or is withdrawn by the Chief Procurement Officer.

**5.33.710 Protests and Judicial Review of Sole-Source Procurements.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

**A.** An Affected Person may protest the determination that the Goods or Services or class of Goods or Services should be procured from only one source.

**B. Method of Protest**

1. Time: A Written protest of the Chief Procurement Officer's Determination shall be provided to the Chief Procurement Officer within seven (7) Days whenever the City posts a notice that it will make a sole source purchase. The Chief Procurement Officer shall not consider a protest submitted after the timeline established for submitting such protest under this rule or such different time period as may be provided in the Notice of Intent to make a Sole Source purchase.
2. Contents:
  - a. Sufficient information to identify the Solicitation that is the subject of the protest;
  - b. A detailed statement of all the legal and factual grounds for the protest;
  - c. Evidence or supporting documentation that supports the grounds on which the protest is based;



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- A.** Interested Offerors may file a Written protest of the Specifications, Contract terms and conditions, pursuant to Section 5.33.730.
- B.** Affected Persons may protest in one of two ways:
- 1.** If no other protest remedies are provided in the Solicitation Document, Affected Persons can file a Written protest to the Award within seven (7) Days after the issuance of the Notice of Intent to Award pursuant to Section 5.33.740 if they meet the requirements of Subsection 5.33.720 C. below.
  - 2.** If expressly required or permitted by the Solicitation Document, Affected Persons must file a Written protest after being excluded from the Competitive Range or after being excluded from any subsequent stages of a Procurement.
- C.** Basis of Protest. An Affected Person may protest its exclusion from the Competitive Range or from subsequent stages of a Procurement only if:
- 1.** The Affected Person is Responsible and submitted a Responsive Offer;
  - 2.** The City made a mistake that, if corrected, would have made the Affected Person eligible to participate in the next stage of the Procurement.
  - 3.** In the case of a competitive request for proposal, the exercise of judgment used by the Evaluation Committee members in scoring written proposals and oral interviews, including the use of outside expertise, if that judgment was biased or not exercised in good faith. The unbiased, good faith judgment of Evaluation is not grounds for protest. The unbiased, good faith judgment of Evaluation Committee members will not be a basis for sustaining a protest.
- D.** Method of Protest:
- 1.** Time: If the Solicitation document permits or requires protests prior to the City's issuance of a Notice of Intent to Award, an Affected Person must submit a Written protest specifying its basis within seven (7) Days after the Affected Person was excluded from participating further in the Procurement.
  - 2.** Contents: The protest must include the following information:
    - a.** Sufficient information to identify the errors that led to the Affected Person's exclusion from the Competitive Range or from subsequent stages of a Procurement;

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- b.** A detailed statement of all the legal and factual grounds for the protest;
  - c.** Evidence or supporting documentation that supports the grounds on which the protest is based;
  - d.** A description of the resulting harm to the Affected Person; and
  - e.** The relief requested.
- E.** Required City Response. The City shall take the following actions, as appropriate:
  - 1.** The City shall inform the Affected Person in Writing if the protest was not timely filed;
  - 2.** The City shall inform the Affected Person if it failed to meet the requirements of Subsection 5.33.720 D.2. and the reasons for that failure;
  - 3.** If the protest was timely filed and provides the information required by Subsection 5.33.720 D.2., the City shall issue a decision in Writing and provide that decision to the Affected Person within a reasonable period of time unless a Written determination is made by the City that circumstances exist that require a shorter time limit.
  - 4.** If the City denies the protest, it shall inform the Affected Person if the decision is final or whether the Chief Procurement Officer has decided to refer the protest to the Purchasing Board of Appeals or City Council.
- F.** Optional City Response: In addition to the requirements of Subsection 5.33.720 E., the Chief Procurement Officer may do any of the following:
  - 1.** Agree with the protest and take any corrective action necessary;
  - 2.** Issue a Written response to the protest and provide that decision to the Affected Person;
  - 3.** Refer the protest and any response to the Board of Appeals for decision;
  - 4.** Refer the protest and any response to the City Council for decision; or
  - 5.** Take any other action that is in the best interest of the City while giving full consideration to the merits of the protest.
- G.** Judicial Review. An Affected Person may not seek judicial review unless it has complied fully with the protest requirements of this section and has exercised all

administrative appeal rights. Judicial review is not available if the City elects not to make a Procurement.

**5.33.730 Protests and Judicial Review of Solicitation Documents and the Procurement Process.**

(Amended by Ordinance Nos. 183445, 184403 and 185898, effective February 20, 2013.)

- A.** An Affected Person may protest the Procurement process or the Solicitation Document for Offers solicited pursuant to Competitive Sealed Bidding pursuant to Section 5.33.200, Competitive Sealed Proposals pursuant to Section 5.33.210, a Special Procurement, or a Class Special Procurement pursuant to Section 5.33.220. Prior to submitting a protest, an Affected Person may seek clarification of any provision of the Solicitation Document. Any clarification by the City is binding only if the City amends the Solicitation Document by Addendum.
  
- B.** Method of Protest
  - 1.** Time: A Written protest of the City's posting of a solicitation document shall be provided to the Chief Procurement Officer within seven (7) Days after a Solicitation Document is advertised. The Chief Procurement Officer shall not consider a protest submitted after the timeline established for submitting such protest under this rule or such different time period as may be provided in the Solicitation Document. A Written Protest of any Addendum shall be submitted by the close of the next business day after issuance of the Addendum.
  
  - 2.** Contents: The protest must include the following information:
    - a.** Sufficient information to identify the Solicitation that is the subject of the protest;
    - b.** A detailed statement of all the legal and factual grounds for the protest;
    - c.** Evidence or supporting documentation that supports the grounds on which the protest is based;
    - d.** A description of the resulting harm to the Affected Person; and
    - e.** The relief requested.
  
- C.** Required City Response.
  - 1.** The City shall inform the Affected Person in Writing if the protest was not timely filed;

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2. The City shall inform the Affected Person if it failed to meet the requirements of Subsection 5.33.730 B.2. and the reasons for that failure;
  3. If the protest was timely filed and provides the information required by Subsection 5.33.730 B.2. above, the Chief Procurement Officer shall issue a decision in Writing and provide that decision to the Affected Person no less than three (3) business days before Offers are due, unless a Written determination is made by the City that circumstances exist that require a shorter time limit.
  4. The Chief Procurement Officer's response shall inform the Affected Person if the decision is final or whether the Chief Procurement Officer has decided to refer the protest to the Purchasing Board of Appeals or City Council. When the decision is final, the Affected Person must seek judicial review before the Opening of Bids, Proposals or Offers.
  5. If the City receives a protest from an Affected Person in accordance with this rule, the City may extend Closing if the City determines an extension is necessary to consider the protest and to issue an Addendum to the Solicitation Document.
- D.** Optional City Response: In addition to the requirements of Subsection 5.33.730 C. above, the Chief Procurement Officer may do any of the following:
1. Agree with the protest and make any necessary corrections to the Solicitation Document or Procurement process;
  2. Issue a Written response to the protest and provide that decision to the Affected Person;
  3. Refer the protest and any response to the Board of Appeals;
  4. Refer the protest and any response to the City Council for decision; or
  5. Any other action that is in the best interest of the City while giving full consideration to the merits of the protest.
- E.** Judicial Review. An Affected Person may not seek judicial review unless it has complied fully with the protest requirements of this section and exercised all administrative appeal rights. Judicial review is not available if the City withdraws the Solicitation Document that was the subject of the protest.

**5.33.740 Protests and Judicial Review of Contract Award.**

(Amended by Ordinance Nos. 183445, 184403 and 185898, effective February 20, 2013.)



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- A.** An Affected Person may protest the Award of a Contract, or the intent to Award a Contract resulting from a Competitive Sealed Bid or Competitive Sealed Proposal, whichever occurs first, if:
- 1.** The Affected Person would be eligible to be Awarded the Contract in the event that the protest was successful; and
  - 2.** The reason for the protest is that:
    - a.** All lower Bids, higher ranked Proposals or other more Advantageous Offers are nonresponsive;
    - b.** The City failed to conduct the evaluation of Offers in accordance with the criteria or processes described in the Solicitation Document;
    - c.** The City abused its discretion in rejecting the Affected Person's Offer as nonresponsive; or
    - d.** The City's evaluation of the Offers was in violation of these rules, ORS Chapter 279B or ORS Chapter 279A.
- B.** Method of Protest.
- 1.** Time: A Written protest of the Chief Procurement Officer's Award shall be provided to the Chief Procurement Officer within seven (7) Days after the Award of a Contract, or issuance of the Notice of Intent to Award the Contract, whichever occurs first. The Chief Procurement Officer shall not consider a protest submitted after the timeline established for submitting such protest under this rule or such different time period as may be provided in the Solicitation Document or Notice of Intent to Award.
  - 2.** Contents: The protest must include the following information:
    - a.** Sufficient information to identify the Award that is the subject of the protest;
    - b.** A detailed statement of all the legal and factual grounds for the protest as described in Subsections 5.33.740 A.2.a. - d. above;
    - c.** Evidence or supporting documentation that supports the grounds on which the protest is based;
    - d.** A description of the resulting harm to the Affected Person; and
    - e.** The relief requested.

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- C.** Required City Response. The City shall take the following actions, as appropriate:
- 1.** The City shall inform the Affected Person in Writing if the protest was not timely filed;
  - 2.** The City shall inform the Affected Person if it failed to meet the requirements of Subsection 5.33.740 B.2. and the reasons for that failure;
  - 3.** If the protest was timely filed and provides the information required by Subsection 5.33.740 B.2. above, the City shall issue a decision in Writing and provide that decision to the Affected Person within a reasonable time of the receipt of the protest.
  - 4.** If the City denies the protest, it shall inform the Affected Person if the decision is final or whether the Chief Procurement Officer has decided to refer the protest to the Purchasing Board of Appeals or City Council.
- D.** Optional City Response: In addition to the requirements of Subsection 5.33.740 C. above, the Chief Procurement Officer may do any of the following:
- 1.** Agree with the protest and issue a revised Notice of Intent to Award or take any other corrective action that may be necessary to ensure that the Contract is Awarded to the appropriate Offeror;
  - 2.** Issue a Written response to the protest and provide that decision to the Affected Person;
  - 3.** Refer the protest and any response to the Board of Appeals for decision;
  - 4.** Refer the protest and any response to the City Council for decision; or
  - 5.** Take any other action that is in the best interest of the City while giving full consideration to the merits of the protest.
- E.** Judicial Review. An Affected Person may not seek judicial review of the Intent to Award a Contract unless it has complied fully with the protest requirements of this section. Judicial review is not available if the City elects not to make an Award.

**5.33.750 Protests of Other Violations.**

(Amended by Ordinance Nos. 181547, 183445, 185898, 187373 and 189878, effective March 4, 2020.) Any violation of ORS Chapter 279A or 279B, except 279B.400 to 279B.425, by the City, for which no administrative remedy is otherwise provided by this Code, is subject to the following:

- A.** A protest by an Affected Person may be made under this section only if a Contract is about to be Awarded or has been Awarded and:

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1. An alleged violation of ORS 279A or 279B, except 279B.400 to 279B.425, has occurred in the Procurement process and violation has resulted or will result in the unlawful Award of a Contract or the unlawful failure to Award the Contract;
2. The alleged violation deprived the Affected Person of the Award of the Contract or the opportunity to compete for the Award of the Contract;
3. The Affected Person would have been a Responsible Bidder, Proposer or Offeror qualified to receive the Award of the Contract;
4. The Affected Person gave Written notice to the City describing the alleged violation no later than 7 Days after the date on which the alleged violation occurred and in no event more than 7 Days after the date of the execution of the Contract;
5. If the alleged violation is of ORS 279A, then it is one for which no judicial review is provided by another section of ORS Chapter 279A or 279B. If the alleged violation is of 279B, except 279B.400 to 279B.425, then it is one for which no judicial review is provided by another section of ORS Chapter 279B.

**B. Method of Protest.**

1. Time: A Written protest of the Chief Procurement Officer's Award shall be provided to the Chief Procurement Officer no later than 7 Days after the date on which the alleged violation occurred and in no event later than 7 Days after the date of the execution of the Contract. The Chief Procurement Officer shall not consider a protest submitted after the timeline established for submitting such protest under this rule and shall not consider a protest under this section if a right to protest is elsewhere provided by this Code.
2. Contents: The protest must include the following information:
  - a. Sufficient information to identify the Procurement or Solicitation that is the subject of the protest;
  - b. A detailed statement of the alleged violation and all the legal and factual grounds for the protest;
  - c. Evidence or supporting documentation that supports the grounds on which the protest is based;
  - d. A description of the resulting harm to the Affected Person; and
  - e. The relief requested.

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- C.** Required City Response. The City shall take the following actions, as appropriate:
1. The City shall inform the Affected Person in Writing if the protest was not timely filed;
  2. The City shall inform the Affected Person if it failed to meet the requirements of Subsection 5.33.750 B.2. and the reasons for that failure;
  3. If the protest was timely filed and provides the information required by Subsection 5.33.750 B.2. above, the City shall issue a decision in Writing and provide that decision to the Affected Person within a reasonable period of time unless a Written determination is made by the City that circumstances exist that require a shorter time limit.
  4. If the City denies the protest, it shall inform the Affected Person if the decision is final or whether the Chief Procurement Officer has decided to refer the protest to the Purchasing Board of Appeals or City Council.
- D.** Optional City Response: In addition to the requirements of Subsection 5.33.750 C., the Chief Procurement Officer may do any of the following:
1. Agree with the protest and take any corrective action necessary;
  2. Issue a Written response to the protest and provide that decision to the Affected Person;
  3. Refer the protest and any response to the Board of Appeals for decision;
  4. Refer the protest and any response to the City Council for decision; or
  5. Take any other action that is in the best interest of the City while giving full consideration to the merits of the protest
- E.** Judicial Review. An Affected Person may not seek judicial review of the City's decision unless it has complied with the Protest requirements of this section and exercised all administrative appeal rights.

**5.33.760 Review of Prequalification and Debarment Decisions.**

(Amended by Ordinance No. 183445, effective January 6, 2010.)

- A.** The denial, revocation or revision of a Prequalification decision or a decision to debar a prospective Offeror must be appealed in Writing to the City within three (3) business days after receipt of the City's notice.
- B.** The City Council delegates its authority to the Chief Procurement Officer for the purposes of receiving notice that a Person has appealed. Upon receipt of the notice

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the Chief Procurement Officer shall notify the Person appealing of a time and place of a hearing designed to consider the appeal within 30 Days or a date mutually agreed upon by both parties.

- C. The City Council delegates its authority to conduct a hearing to the Chief Procurement Officer. The Chief Procurement Officer may subdelegate the authority to conduct a hearing to any person the Chief Procurement Officer deems appropriate, including the Board of Appeals.

**5.33.770 Procurement Board of Appeals.**

(Amended by Ordinance Nos. 183445, 185898 and 189878, effective March 4, 2020.)

- A. Purpose. The purpose of this rule is to provide for the prompt, effective and efficient resolution of appeals and protests of Affected Persons in regard to City decisions when such matters are referred to it by the Chief Procurement Officer or when authorized or required by this Chapter.
- B. Board Created. Pursuant to Portland City Charter Section 2-103, City Council hereby creates the Procurement Board of Appeals for the purposes described above.
- C. Jurisdiction of Board. The Procurement Board of Appeals shall hear and resolve protests and appeals arising from City decisions arising under this Chapter only when such matters are referred to it by the Chief Procurement Officer.
- D. Composition of Board.
  - 1. The Procurement Board of Appeals shall consist of three members. A quorum shall consist of three members.
  - 2. The members of the Board shall be:
    - a. A representative from the public Procurement sector;
    - b. The City Engineer;
    - c. A member of the general public with affiliation to the Procurement profession.
  - 3. The public members shall be appointed by the Mayor, subject to confirmation by City Council and shall serve for a period of up to two years, which may be extended by the Chief Procurement Officer for additional 2-year periods up to a total possible term of 10 years.
  - 4. A member of the board shall serve as chairperson.

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- E.** Compensation. All members of the Board shall serve without pay, except that they may receive their regular salaries during time spent on Board matters.
- F.** Vacancies. A vacancy on the Board shall be filled as soon as possible in accordance with the procedures described above.
- G.** Procedure and Rules. The Chief Procurement Officer shall establish administrative rules of procedure for the Board and the Board shall follow that procedure for all matters heard by the Board.
- H.** Staff. Procurement Services shall provide staff and appropriate assistance for the Board.

**5.33.780 Powers of the Board.**

(Amended by Ordinance No. 183445, effective January 6, 2010.)

- A.** The Board shall be responsible for reviewing the decisions of the City arising under this Chapter. In regard to appeals of decisions regarding Prequalification or disqualification of Bidders or Proposers, the Board shall comply with Oregon state law and these rules.
- B.** The Board shall consider only those matters that were raised by the Affected Person in its protest to the Chief Procurement Officer.
- C.** The Board shall not consider the appeal of any Affected Person who did not file a timely appeal.
- D.** The Board shall hear appeals based on administrative rules of procedure established by the Chief Procurement Officer. The administrative rules shall provide for notice and prompt hearing of appeals and protests, record-making, right to counsel and other procedural matters.
- E.** Following completion of a hearing, the Board shall prepare a Written decision that shall be mailed to all parties to the hearing by certified mail, return receipt requested.

**5.33.790 Appeal to Board.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A.** Time. Any request for hearing by the Board shall be received by the Chief Procurement Officer no more than seven (7) Days from the date of the Chief Procurement Officer's decision unless a different timeline is provided in the Solicitation Document. The request shall be delivered to Procurement Services, Attn: Chief Procurement Officer and marked "Request for Hearing by the Procurement Board of Appeals."

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- B.** Contents. The request shall set forth the specific reasons for requesting a hearing by City Council. Only those matters that were raised with the Chief Procurement Officer and the Procurement Board of Appeals shall be stated as grounds for appeal.
- C.** Time of Hearing. The Chief Procurement Officer shall schedule the time and place for the Board to meet giving consideration to the schedule of the Board.
- D.** Further Appeal. An Affected Person who is not satisfied with the decision of the Board may file a further Written appeal, but only if permitted by the Chief Procurement Officer. If not permitted by the Chief Procurement Officer, the Affected Person has exhausted its administrative appeals. Any request for further appeal shall be received by the Chief Procurement Officer no later than three (3) Days from the date the Affected Person receives the Board's Written decision. The request shall be delivered to Procurement Services, Attn: Chief Procurement Officer and marked "Request for Hearing by City Council."
- E.** If so referred, City Council shall decide at its next available regularly scheduled hearing whether to hear the appeal. If City Council decides not to hear the appeal, the decision of the Board is final. If City Council decides to hear the appeal it shall be scheduled by the Council Clerk for hearing by City Council. The City Council's decision on the appeal shall be final upon issuance of City Council's order deciding the appeal. The City Council may also adopt the decision of the Board without further hearing by City Council. In this situation, the appeal to City Council shall be final upon issuance of City Council's order adopting the decision of the Board. The rules of City Council provided at Chapter 3.02 shall be the rules for any hearing on appeal.
- F.** If so permitted, the decision of City Council shall conclude an Affected Person's administrative remedies and further redress sought by an Affected Person shall be pursuant to state law. Otherwise, the Board's decision shall be final for any remedies that might be available to Affected Person under state law.
- G.** Costs: The Chief Procurement Officer may impose a reasonable fee on the Affected Person requesting a hearing before the Board or Council to defray costs of the appeal. The fee shall be paid at the time the hearing is requested or the protest shall be considered waived. In the event that the Person contesting the hearing prevails in its protest, the fee shall be refunded.

**5.33.900 Social Equity Contracting and Employment Programs.**

(Amended by Ordinance No. 185898, effective February 20, 2013.) From time to time, the City may adopt programs designed to promote competition, enhance economic opportunity and stimulate hiring among all of Portland's citizens. When such programs

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are adopted, they shall be included or sufficiently referenced in the Solicitation and Contract documents so that prospective Offerors are aware of their requirements.

**5.33.920 Records Maintenance; Right to Audit Records.**

(Amended by Ordinance Nos. 185898 and 189878, effective March 4, 2020.)

- A.** Contractors and Subcontractors shall maintain all fiscal records relating to a Contract executed with the City in accordance with generally accepted accounting principles. In addition, Contractors and Subcontractors shall maintain any other records necessary to clearly document:
- 1.** Performance: Performance includes, but is not limited to, compliance with plans and Specifications, compliance with fair Contracting and employment programs, compliance with Oregon law on payment of wages and accelerated payment provisions, and any and all requirements imposed on the Contractor or Subcontractor under the Contract or subcontract;
  - 2.** Any claims arising from or relating to their performance under a Contract;
  - 3.** Any cost and pricing data; and,
  - 4.** Payment to suppliers and Subcontractors.
- B.** Such records shall be maintained for a period of six years from the date of final completion of the Contract or until the conclusion of any audit, controversy or litigation arising out of or related to a Contract, whichever is longer, unless a shorter period of time is authorized in Writing by the City.
- C.** Contractors and Subcontractors shall make all their records available to the City within the boundaries of the City of Portland, Oregon, at reasonable times and places regardless of whether litigation has been filed on any claims. If the records are not made available within the boundaries of the City, the Contractor or Subcontractor shall pay all costs for City employees, and any necessary consultants hired by the City, including travel, per diem costs, salary, and any other expenses incurred by City in sending its employees or consultants to examine, audit, inspect, and copy those records. If the Contractor elects to have such records outside these boundaries, the costs paid by the Contractor to the City for inspection, auditing, examining and copying those records are not recoverable costs in any legal proceeding.
- D.** The City and its Authorized Representatives shall be entitled to inspect, examine, copy and audit the books and records of any Contractor or Subcontractor upon request by the City for any reason, including any documents that may be placed in escrow according to any Contract requirements. The records that may be inspected and copied include financial documents of the Contractor, including tax returns and



financial statements. The City will keep such documents confidential to the extent permitted by Oregon law, subject to Subsection 5.33.920 E. below.

- E.** Contractors and Subcontractors agree to disclose the records requested by the City and agree to their admission as evidence in any proceeding between the parties, including, but not limited to a court proceeding, arbitration, mediation or other alternative dispute resolution process.
- F.** In the event that the records disclose that the City is owed money or establishes that any portion of any claim made against the City is not warranted, the Contractor or Subcontractor shall pay all costs incurred by the City in conducting the audit and inspection. Such costs may be withheld from any sum due or that becomes due to the Contractor by the City.
- G.** Failure of the Contractor or Subcontractor to keep or disclose records as required may result in disqualification as a Bidder or Proposer for future City Contracts or may result in a finding that the Contractor or Subcontractor is not a Responsible Bidder or Proposer.

**5.33.930 Right to Inspect Plant or Place of Business.**

- A.** Time for Inspection. The City may, at reasonable times, inspect the part of the plant or place of business of a Contractor or any Subcontractor or supplier which is related to the performance of any Contract Awarded.
- B.** Access to Plant or Place of Business. As a condition of Bidding or proposing, Bidders and Proposers agree that representatives of the City may enter a Contractor's or Subcontractor's or supplier's plant, place of business, work site or construction site during normal business hours for the following purposes:
  - 1.** To inspect and/or test supplies or services for acceptance by the City pursuant to the terms of the Bid or Proposal;
  - 2.** To investigate in connection with a Bidder's or Proposer's Bid or Proposal, a minority business or EEO certification, or Bidder or Proposer qualification.
  - 3.** To inspect for compliance with City programs required by the Solicitation Document.
  - 4.** To inspect for Contract compliance.
- C.** Contractual Provisions. Contracts may provide that the City may inspect supplies and services at the Contractor's or Subcontractor's or supplier's office or facility and perform tests to determine whether they conform to the Solicitation Document,

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or, after Award, to the Contract requirements, and are qualified. Such inspections and tests shall be conducted in accordance with the terms of the Contract.

- D.** Procedures for Inspection, Trial Use and Testing. The City may establish operational procedures governing the inspection, testing and trial use of equipment, materials and the application of resulting information and data to Specifications or Procurements.
- E.** Conduct of Inspections and Tests:
  - 1.** Inspectors and testers. Inspections or tests shall be performed so as not to unduly delay the Work of the Contractor or Subcontractor. No change of any provision of the Specifications or the Contract may be required by the inspector or tester without Written authorization of the City, unless otherwise specified in the Solicitation Document. The presence or absence of an inspector or tester shall not relieve the Contractor or Subcontractor from any requirement of the Contract;
  - 2.** Location. When an inspection is made in the plant or place of business of a Contractor or Subcontractor, such Contractor or Subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the inspector or tester;
  - 3.** Time of inspection or testing. Inspection or testing of supplies and services performed at the plant or place of business of any Contractor or Subcontractor shall be performed at reasonable times during normal business hours.

**5.33.940 Contract Cancellation, Contractor Termination Procedures.**

(Amended by Ordinance No. 185898, effective February 20, 2013.)

- A.** Grounds for Cancellation or Termination. The City may, at its option, cancel a Contract or terminate the Contractor's performance, if cancellation or termination is in the best interest of the City; or, for any material violation of the provisions of the Contract. Such provisions generally include, but are not limited to:
  - 1.** Standard terms and conditions included in Contracts;
  - 2.** Product or service Specifications;
  - 3.** Delivery or completion requirements; or
  - 4.** Contracted pricing and price escalation/de-escalation clauses.
- B.** The City and the Contractor may cancel the Contract at any time by mutual Written agreement.

- C. Termination For Convenience.**
- 1. Reasons for Termination.** The City may, in its sole discretion, by a Written order or upon Written request from the Contractor, cancel the Contract or a portion thereof if any of the following occur:
    - a.** The Contractor is prevented from completing the Work for reasons beyond the control of the City; or
    - b.** The Contractor is prevented from completing the Work for reasons beyond the control of the Contractor; or
    - c.** For any reason considered by the City to be in the public interest, other than a labor dispute or any third party judicial proceeding relating to the Work filed in regards to a labor dispute. These reasons may include, but are not limited to, non-availability of materials, phenomena of nature of catastrophic proportions or intensity, executive orders of the President related to national defense, congressional, state or local acts related to funding; or
    - d.** Any third party judicial proceeding relating to the Work other than a suit or action filed in regards to a labor dispute; or
    - e.** If the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of a Public Improvement.
- D. Payment When Contract is Canceled.** When the Contract, or any portion thereof, is canceled before completion of all items of Work in the Contract, payment shall be made, based on the Contract price, for the actual items of Work completed under the Contract, or by mutual agreement, for items of Work partially completed. No claim for loss of anticipated profits or overhead shall be allowed;
- E. Responsibility for Completed Work if Contract Canceled.** Cancellation of a Contract or a portion thereof shall not relieve the Contractor of responsibility for the Work completed, nor shall it relieve the surety of its obligation for any just claims arising from the Work performed.
- F. Termination of The Contractor's Performance for Default.**
- 1. Declaration of Default.** The City may, after giving the Contractor and its surety seven (7) Days Written notice and an opportunity to cure deficient performance, terminate the Contractor's performance for any reasonable cause. Upon such termination, the City may immediately take possession of the premises and of all materials, tools and appliances thereon as well as

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all other materials, whether on the premises or not, on which the Contractor has received partial payment. The City may finish the Work by whatever method it may deem expedient;

- a.** If the Contractor should repeatedly refuse or fail to supply an adequate number of skilled workers or proper materials to carry on the Work as required by the Contract documents, or otherwise fail to pursue the Work in a timely manner; or
  - b.** If the Contractor should repeatedly fail to make prompt payment to Subcontractors or for material or labor; or
  - c.** If the Contractor should voluntarily or involuntarily seek protection under the United States Bankruptcy Code and its Debtor in Possession or Trustee for the estate fails to assume the Contract within a reasonable time, or as provided by the Bankruptcy Court; or
  - d.** If the Contractor should make a general assignment for the benefit of the Contractor's creditors; or
  - e.** If a receiver should be appointed on account of the Contractor's insolvency; or
  - f.** If the Contractor is otherwise in material breach of any part of the Contract; or
  - g.** If the Contractor should disregard laws, rules, or the instructions of the City or its Authorized Representative.
- 2.** Required Response to Declaration of Default. If a default is declared and the Contractor's performance terminated, the Contractor or the surety shall provide the City with immediate and peaceful possession of all of the materials, tools and appliances located on the premises, as well as all other materials whether on the premises or not, on which the Contractor has received any progress payment. Further, the Contractor shall not be entitled to receive any further payment until the Work is completed. On the completion of the Work, the City shall determine the total amount of compensation the Contractor would have been entitled to receive for the Work, under the terms of the Contract, had the Contractor completed the Work. If the difference between this total amount and the sum of all amounts previously paid to the Contractor, (the unpaid balance) exceeds the expense incurred by the City in completing the Work, including expense for additional managerial and administrative services, such excess will be paid to the Contractor, with the consent of the surety;

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3. Expense of Completion. The expense incurred by the City shall be as determined and certified by the City;
- G.** Refusal to Perform. In addition to and apart from the above-mentioned right of the City to terminate the Contractor's performance, the Contract may be canceled by the City for any willful failure or refusal on the part of the Contractor and its surety to perform faithfully the Contract according to all of its terms and conditions; however, in such event neither the Contractor nor the surety shall be relieved from damages or losses suffered by the City on account of the Contractor's breach of Contract;
- H.** Remedies Cumulative. The City may, at its discretion, avail itself of any or all of the above rights or remedies and invoke anyone of the above rights or remedies without prejudice and without precluding the City from subsequently invoking any other right or remedy set forth above, or in the Contract, or available at law or in equity.
- I.** Notice. The City shall provide the Contractor Written notice of the grounds for Contract cancellation or Contractor termination and of its intention to cancel the Contract or terminate the Contractor's performance. If the Contractor provided a performance and payment bond, the surety shall also be provided with a copy of the notice of Contract cancellation or Contractor termination. The notice shall include:

  1. The effective date of the intended cancellation or termination,
  2. The grounds for cancellation or termination, and
  3. Notice of the amount of time (if any) in which the City shall permit the Contractor to correct the failure to perform.
- J.** The Contract documents may provide Contract cancellation or Contractor termination procedures that are different from, or in addition to, those provided herein. If a Contract contains a cancellation or termination clause, that clause rather than Section 5.33.940 shall determine the respective rights and responsibilities of the parties in the event of cancellation or termination.
- K.** Contract Completion By Substitute Contractor. If the Contractor has provided a performance and payment bond, the City may afford the Contractor's surety the opportunity, upon the surety's receipt of a cancellation or termination notice, to provide a substitute Contractor to complete performance of the Contract. The substitute Contractor may Contract with the surety or the City may Contract with the substitute Contractor selected by the surety. Performance by the substitute Contractor shall be rendered pursuant to all material provisions of the original Contract, including the provisions of the performance and payment bond. Substitute

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performance does not constitute the Award of a new Contract and shall not be subject to the provisions of ORS Chapter 279A, 279B or 279C.

**5.33.950 Unsolicited Proposal Policy.**

(Added by Ordinance No. 189878, effective March 4, 2020.)

- A.** Public-private partnerships create opportunities for both the public and private sectors. Recognizing that the structure of these partnerships will be dependent upon the scope and the opportunities that the partnership offers, the involved parties play varying roles and assume varying degrees of responsibility in achieving the intended outcome of any partnership.

The intent of this Policy is to provide a mechanism for the private sector to initiate partnerships with the City outside of the typical procurement process, which requires the City to first issue a solicitation before it can consider proposals or Offers from the private sector for products and/or services. When public-private partnerships are properly conceived and implemented, including having the support of the community and local jurisdictions, they can offer significant advantages to both the public and private sectors.

The City believes that this policy will facilitate more public-private partnerships with the following characteristics:

1. Leveraging the expertise and resources of the private sector and allowing firms to submit innovative, creative and proprietary approaches, plans, processes, procedures, and solutions that have commercial value to the City to assist in delivering products and/or services to the residents of the City of Portland that cannot be achieved through normal methods of procurement or financing;
2. Encouraging and promoting business and employment opportunities with the City of Portland

**B.** Definition of an Unsolicited Proposal

An unsolicited proposal should be distinguished from the following:

1. Advertising Material – Material designed to acquaint the City with a prospective Offeror’s current off-the-shelf products and/or services or potential capabilities;
2. Commercial Product Offerings – Offers of standard commercial products or services usually sold in substantial quantities to government agencies or the general public which the Offeror desires the City to procure as an alternative or replacement for existing products or services;

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3. Contributions – Concepts, suggestions or mere ideas presented to the City for its use, with no indication on the part of the Offeror that it will continue with its efforts with regard to such concepts, suggestions or ideas on behalf of the City; and
4. Technical Correspondence – Written inquiries regarding the City’s interest in research areas, pre-proposal explorations and technical inquiries.

**C. Content of Unsolicited Proposals**

Unsolicited proposals should contain the following information in order to permit consideration in an objective and timely manner:

1. Basic information – this shall include the name and address of the Offeror; type of organization e.g. for profit, nonprofit, educational, small business, etc...; names and telephone number of the Offeror’s technical and business personnel whom the City may contact for evaluation or negotiation purposes; identification of any proprietary data which the Offeror intends to be used by the City only for evaluation purposes; names of any other Federal, State or Local agencies or other parties receiving the proposal and/or funding the proposed effort or activity; date of submission; and signature of a responsible official or representative of the organization.
2. Technical information – this includes a concise title and an abstract of the proposed products and/or services; a reasonably complete discussion stating the objectives of the effort or activity; the method of approach and extent of effort to be employed, the nature and extent of the anticipated results; the manner in which the effort or activity will help support the accomplishment of the services the City provides to the residents of the City of Portland; the names and brief biographical information of the Offeror’s key personnel who would be involved; and the type of support or effort, if any, that the City would be expected to provide or perform.
3. Supporting information – this includes a proposed price or total estimated cost; a cost estimate for the proposed effort or activity sufficiently detailed by elements of cost for meaningful evaluation; the type of contract preferred; the period of time for which the proposal is valid; the proposed duration of effort; statements, if applicable, regarding cost sharing and the level of investment to be made by the Offeror; organizational conflicts of interest; environmental impacts; and brief descriptions of the organization, previous work or experience in the field of the proposal and facilities to be utilized for the work, where appropriate for understanding the unsolicited proposal.

**D. Advance Guidance**

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Organizations or individuals interested in submitting an unsolicited proposal are encouraged to first contact the City to make preliminary inquiries as to the general need for the products and/or services contemplated. Prior contact with City personnel is permissible and should be encouraged with the limited objective of conveying to the prospective Offeror an understanding of the City's needs relative to the product or service contemplated by the prospective Offeror. Contact shall be conducted in a manner that

1. precludes a bureau commitment regarding acceptance of an unsolicited proposal;
2. avoids providing the prospective Offeror a competitive advantage for any planned competitive solicitation.

**E. Process and Evaluation Description**

The City will follow a three step evaluation process in determining whether to accept an unsolicited proposal. A favorable comprehensive evaluation will not, in itself, result in the awarding of a contract to the Offeror. The three step process shall be as follows:

1. Step One – Initial Evaluation
  - a. A prospective Offeror shall submit its unsolicited proposal to Procurement Services at the following address:
    - (1) City of Portland
    - (2) Procurement Services Division
    - (3) Attn: Chief Procurement Officer
    - (4) Unsolicited proposals shall be submitted well in advance of the Offeror's desired beginning of the proposed effort or activity in order to allow the City sufficient time to evaluate the proposal and negotiate a contract if the unsolicited proposal is accepted by the City.
  - b. An initial evaluation shall be conducted by the appropriate City staff to determine that the proposal contains sufficient technical and cost information to permit a meaningful evaluation and that it was submitted by a responsible official or authorized representative of the organization submitting the proposal or a person who is authorized to contractually obligate the organization.



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- c. In evaluating an unsolicited proposal, the following criteria will be considered in addition to other criteria relevant to the offer:
  - (1) Unique, innovative, or meritorious methods, approaches, ideas or solutions that have originated with or have been assembled together by the Offeror that are contained in the unsolicited proposal.
  - (2) Overall merits of the proposed products and/or services.
  - (3) Potential contribution that the proposed effort or activity is expected to achieve for the City, if pursued.
  - (4) Capabilities related to experience, facilities, techniques or unique combinations thereof, which the Offeror possesses and offers, and which are considered integral factors for achieving the objective(s) of the unsolicited proposal.
  - (5) Qualifications, capabilities and experiences of the proposed principal, team leader or key personnel who are considered to be critical in achieving the objectives of the unsolicited proposal.
  - (6) The financial benefit to the City in implementing the unsolicited proposal.
- d. Upon completion of the initial evaluation, City staff performing the evaluation shall prepare a memo setting forth the evaluation results and submit to the Chief Procurement Officer. The memo shall also recommend further action, if any.
- e. The City is not required to conduct a secondary evaluation if, upon application of the above described criteria, the proposal is deemed not to be within the purview of the City's interests. In such cases, the Offeror shall be furnished a reply stating how the document is being interpreted by the City and the reasons for not continuing with subsequent evaluation.

**2. Step Two – Secondary Evaluation and Publication**

- a. Prior to performing a secondary evaluation or negotiation regarding an unsolicited proposal, the City will publicize its, "Intent to Negotiate a Contract Offered by an Unsolicited Proposal" for a period of 30 days. The purpose of such publication is to ascertain whether other parties have a desire and the ability to offer products

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and/or services similar to what is contemplated in the unsolicited proposal. The City's publication will give notice of the basic business elements of the unsolicited proposal and inform/invite the public that interested parties may inquire about, provide comments and/or express a statement that they can provide similar products and/or services to the City. The publication will not disclose proprietary information from the unsolicited proposal. If, based on the City's publication, interest is expressed by other parties who also desire an opportunity to submit a proposal for similar products and/or services of those contemplated in the unsolicited proposal, then the City will withdraw its, "Intent to Negotiate a Contract Offered by an Unsolicited Proposal" and work with the City bureau to figure out whether or not the City will issue a competitive solicitation.

- b.** If, based on review of inquiries, comments and/or expressions of interest from other, interested parties, the City determines that those other, interested parties are not offering equal products and/or services in a similar offer to that of the unsolicited proposal, the City reserves the right to continue in the process and enter into negotiations with the Offeror that submitted the unsolicited proposal.
- c.** If no inquiries, comments and/or expressions of interest are received during the 30 day publication period, the City will continue the process and enter into negotiations with the Offeror that submitted the unsolicited proposal.

**3. Step Three – Negotiation**

- a.** Upon making a determination that an unsolicited proposal has merits to the City and that it meets all of the requirements contained herein, the Chief Procurement Officer will seek authorization from Council by an Ordinance to enter into negotiations with the Offeror of the unsolicited proposal regardless of the amount.
- b.** The City reserves the right to require the submission of supplemental material or information that will assist the City in negotiating a final contract and in determining that the Offeror has the technical capability and financial resources to perform the contract as contemplated.
- c.** An unsolicited proposal that results in a recommendation of the City that a contract be awarded is subject to all other applicable contract award and approval requirements.

**F. Use of Information**

All unsolicited proposals submitted to the City are subject to the applicable public records laws. Offerors are advised to familiarize themselves with the provisions of these laws. If the Offeror has concerns about proprietary information that it would like to make available to the City, the Offeror may suggest for the City's consideration, prior to submission of its unsolicited proposal, methods for safeguarding such information from disclosure consistent with applicable public records laws. Nothing herein precludes the City from using any data, concepts or ideas, which it may have intended to use had the unsolicited proposal not been submitted. Subject to this policy, any information submitted to the City shall be held in confidence until such time that the City accepts the unsolicited proposal and it becomes necessary to commence the contract award process.

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**CHAPTER 5.34 - PUBLIC IMPROVEMENTS  
AND CONSTRUCTION SERVICES**

(Chapter replaced by Ordinance No. 180350,  
effective August 25, 2006.)

**Sections:**

- 5.34.010 Definitions.
- 5.34.020 Application and Authority.
- 5.34.040 Affirmative Action.
- 5.34.060 Contracts for Construction Other than Public Improvements.
- 5.34.100 Overview of Source Selection and Contractor Selection.
- 5.34.110 Emergency Contracts; Bidding and Bonding Exemptions.
- 5.34.120 Selection of Substitute Contractor.
- 5.34.130 Joint Cooperative Purchasing.
- 5.34.140 General Rules for Joint Cooperative Procurements; Fees.
- 5.34.150 Competitive Bidding Requirement.
- 5.34.160 Intermediate Procurements.
- 5.34.300 Solicitation Documents; Required Provisions; Assignment or Transfer.
- 5.34.310 Notice and Advertising Requirements; Posting.
- 5.34.320 Specifications and Brand Names.
- 5.34.340 Electronic Procurement.
- 5.34.410 Bid or Proposal Security.
- 5.34.420 Pre-Offer Conferences.
- 5.34.430 Addenda to Solicitation Documents.
- 5.34.440 Request for Clarification or Change.
- 5.34.450 Offer Submissions.
- 5.34.460 Pre-Closing Modification or Withdrawal of Offers.
- 5.34.470 Receipt, Opening and Recording of Offers.
- 5.34.480 Late Bids, Late Withdrawals and Late Modifications.
- 5.34.490 Mistakes.
- 5.34.493 First-Tier Subcontractors; Disclosure and Substitution.
- 5.34.500 Responsibility of Offerors.
- 5.34.510 Prequalification of Offerors.
- 5.34.520 Eligibility to Bid or Propose; Registration or License.
- 5.34.530 Disqualification of Persons.
- 5.34.535 COBID Certified Firm Prohibited Conduct; Sanctions; Appeals.
- 5.34.600 Bid or Proposal Evaluation Criteria.
- 5.34.610 Offer Evaluation and Award; Determination of Responsibility.
- 5.34.620 Negotiation With Bidders Prohibited.
- 5.34.625 Contract Preference; Resident Bidders.
- 5.34.630 Reciprocal Preferences.
- 5.34.640 Negotiation When Bids Exceed Cost Estimate.
- 5.34.645 Rejection of Offers.
- 5.34.650 Notice of Intent to Award.

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- 5.34.660 Cancellation, Delay or Suspension of Solicitation.
- 5.34.670 Disposition of Offers if Solicitation Canceled.
- 5.34.675 Documentation of Award.
- 5.34.680 Time for City Acceptance; Extension.
- 5.34.685 Availability of Award Decisions.
- 5.34.690 Performance and Payment Security; Waiver.
- 5.34.695 Notification to State of Nonresident Contractor.
- 5.34.700 Protests and Judicial Review of Individual and Class Exemptions.
- 5.34.710 Protests and Judicial Review of Multi-Tiered Solicitations.
- 5.34.720 Protests and Judicial Review of Solicitation Documents and the Solicitation Processes other than Multi-Tier Processes.
- 5.34.725 Administrative Reconsideration as a Result of Rejection for Failure to Meet DBE Requirements.
- 5.34.730 Protest of Contractor Selection, Contract Award.
- 5.34.740 Protests of Other Violations.
- 5.34.760 Procurement Board of Appeals.
- 5.34.770 Powers of the Board.
- 5.34.780 Appeal to Board.
- 5.34.800 Purpose.
- 5.34.810 Definitions for Alternative Contracting Methods.
- 5.34.820 Use of Alternative Contracting Methods.
- 5.34.830 Findings, Notice and Hearing.
- 5.34.840 Competitive Proposals; General Procedures.
- 5.34.845 Requests for Qualifications (RFQ)
- 5.34.850 Requests for Proposals (RFP).
- 5.34.860 RFP Pricing Mechanisms.
- 5.34.870 Design-Build Contracts.
- 5.34.880 Energy Savings Performance Contracts (ESPC).
- 5.34.890 Construction Manager/General Contractor Services (CM/GC Services).
- 5.34.900 Required Contract Clauses.
- 5.34.910 Waiver of Delay Damages Against Public Policy.
- 5.34.915 BOLI Public Works Bond.
- 5.34.920 Retainage.
- 5.34.930 Social Equity Contracting and Employment Programs.
- 5.34.940 Public Works Contracts.
- 5.34.950 City Payment for Unpaid Labor or Supplies.
- 5.34.960 Records Maintenance; Right to Audit Records.
- 5.34.970 Right to Inspect Plant or Place of Business.
- 5.34.980 Contract Cancellation, Contractor Termination Procedures.

**5.34.010 Definitions.**

(Amended by Ordinance Nos. 185898, 187373, 187974 and 189878, effective March 4, 2020.)

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- A. The definitions contained in Sections 5.33.010 and 5.33.140 are applicable to Chapter 5.34.
1. **“Change Order”** means a written agreement between the City and Contractor that alters the specifications of the Contract.
  2. **“Conduct Disqualification”** means a Disqualification pursuant to ORS 279C.440.
  3. **“Disqualification”** means the preclusion, suspending or sanctioning of a Person from contracting with the City for a period of time in accordance with Section 5.34.530 or Section 5.34.535. Disqualification may be a Conduct Disqualification, DBE Disqualification or COBID Certified Firm Disqualification.
  4. **“Foreign Contractor”** means a Contractor that is not domiciled in or registered to do business in the State of Oregon.
  5. **“Notice”** means any of the alternative forms of public announcement of Procurements, as described in Section 5.34.310.
  6. **“Work”** means all services, material, labor, tools, equipment, and all appliances, machinery, systems, transportation, and appurtenances necessary to perform and complete the Contract, and such additional items not specifically indicated or described which can be reasonably inferred as belonging to the item described or indicated and as required by good practice to provide a complete, functioning, and satisfactory system or structure.

**5.34.020 Application and Authority.**

(Amended by Ordinance Nos. 181547, 183445, 185898, 187373 and 187974, effective September 7, 2016.)

- A. Public improvements. Chapter 5.34 applies to the Award of Contracts for public improvements and construction services for public improvements. Contracts for emergency work are governed by Chapter 5.33 and ORS 279B.080.
- B. Contracts for minor alteration, ordinary repair or maintenance of public improvements or Price Agreements, as well as other Contracts for construction services that are not defined as a public improvement under Section 5.33.010 shall be Awarded and executed pursuant to Chapter 5.33 and ORS 279B and not this Chapter. However, some portions of ORS 279C and this chapter may still be applicable to the resulting Contracts.
- C. Authority and Ethics

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1. The Authority of the City Council as the Local Contract Review Board is the same in regard to Chapter 5.34 as it is for Chapter 5.33, including the authorization of Contract amendments.
2. The Authority of the Chief Procurement Officer is the same for Chapter 5.34 in regard to public improvement and construction services Contracts as it is for Goods and Services as set forth in Chapter 5.33.
3. The authority of Bureau and Office directors to authorize and execute Contracts and Contract amendments is the same in regard to Chapter 5.34 as it is in Chapter 5.33.
4. The rules stated in Section 5.33.070 regarding the purchase of Goods and Services from City employees shall also apply to Public Improvements covered by Chapter 5.34.

**5.34.040 Affirmative Action.**

(Amended by Ordinance Nos. 184403, 185065, 187974 and 189878, effective March 4, 2020.)

- A. Pursuant to ORS 279A.100, the City may limit competition on Contracts to carry out affirmative action policies, in accordance with policies and procedures established by the City.
- B. Pursuant to ORS 279A.105, the City may require a Contractor to subcontract some part of a Contract to, or to obtain materials to be used in performing the Contract from:
  1. A business enterprise that is certified under ORS 200.055 as a COBID Certified Firm; or
  2. A business enterprise that is:
    - a. Certified under ORS 200.055 as a COBID Certified Firm; and
    - b. Is located in or draws its workforce from economically distressed areas, as designated by the Oregon Economic and Community Development Department (OECDD); or
    - c. Owned or controlled by a disabled veteran, as defined in ORS 408.225.
- C. A Subcontractor certified under ORS 200.055 as a COBID Certified Firm is located in or draws its workforce from economically distressed areas if:

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1. Its principal place of business is located in an area designated as economically distressed by the OECDD pursuant to administrative rules adopted by the OECDD; or
  2. The Contractor certifies in Writing to the City that a substantial number of the Subcontractor's employees or Subcontractors that will manufacture the Goods or complete the Services under the Contract reside in an area designated as economically distressed by the OECDD pursuant to administrative rules adopted by OECDD. For the purposes of making the foregoing determination, the City shall determine in each particular instance what proportion of a Contractor's Subcontractor's employees or Subcontractors constitute a substantial number.
  3. The City shall include in each Solicitation Document a requirement that Offerors certify in their Offers in a form prescribed by the City, that the Offeror has not and will not discriminate against a Subcontractor in the Awarding of a Subcontract because the Subcontractor is a COBID Certified Firm under ORS 200.055.
- D.** The City may sanction a Person from consideration of Award of the City's Contracts under ORS 200.065 or ORS 200.075 in accordance with Section 5.34.535 and these rules.

**5.34.060 Contracts for Construction Other than Public Improvements.**

(Amended by Ordinance Nos. 181547 and 185898, effective February 20, 2013.) Pursuant to ORS 279C.320, Public Contracts for construction Services that are not Public Improvement Contracts, may be procured and amended as general trade Services under the provisions of ORS Chapter 279B rather than under the provisions of ORS Chapter 279C and Chapter 5.34.

**5.34.100 Overview of Source Selection and Contractor Selection.**

(Amended by Ordinance Nos. 185898 and 187373, effective October 14, 2015.) The City shall Award a Public Contract for Public Improvements pursuant to Chapter 5.34 using any method authorized by state law or City Code. Such different methods are called methods of "source selection." Source selection methods for Public Improvements include:

- A. Emergency Procurements;
- B. Substitution of Contractors by a Surety;
- C. Joint Cooperative Procurements;
- D. Competitive Quotations;
- E. Competitive Bidding; and



- F. Alternative Contracting Methods found in Section 5.34.800 et seq. Class exemptions are located in Subsection 5.34.830 H. while individual Contracts must be authorized by the City Council by ordinance.

**5.34.110 Emergency Contracts; Bidding and Bonding Exemptions.**

(Amended by Ordinance Nos. 181547, 183445, 184403 and 189878, effective March 4, 2020.)

- A. The City may Award a Contract as an Emergency Procurement without the use of competitive sealed Bidding or competitive sealed Proposals as authorized by ORS 279B.080 and Chapter 5.33 of this Code. Emergency Procurement Contracts pursuant to a Proclamation of a State of Emergency or Disaster, however, are governed by Section 5.33.135.
- B. The Council or person authorizing the Emergency Procurement Contract shall document the nature of the Emergency and describe the method used for the selection of the particular Contractor. The City shall encourage competition for Emergency Procurement Contracts to the extent reasonable under the circumstances.
- C. The Chief Procurement Officer may award, execute, amend, and terminate an Emergency Procurement Contract if the original value of the Emergency Procurement Contract is \$500,000 or less with authorization from the Commissioner-in-Charge of the City Office, Bureau or Department.
- D. If the Chief Procurement Office or person to whom the powers of the Chief Procurement Officer have been delegated is unable to perform the duties of the Chief Procurement Officer position, the director of a City Office, Bureau or Department may award, execute, amend, and terminate an Emergency Procurement Contract if the original value of the Emergency Procurement Contract is \$500,000 or less with authorization from the Commissioner-in-Charge of the City Office, Bureau or Department.
- E. A Commissioner-in-Charge of a City Office, Bureau or Department may award, execute, amend, and terminate an Emergency Procurement Contract subject to the following procedures over \$500,000.
  - 1. The Commissioner-in-Charge shall immediately prepare an ordinance for City Council approval of the Emergency Procurement Contract at its next regularly scheduled session or as soon as possible thereafter.
  - 2. If City Council adopts the ordinance, the City will pay for the Work required by the Emergency Procurement Contract. If City Council disapproves the ordinance, the City only will pay for Work performed prior to the date that City Council considered the ordinance for approval. If presentation of the

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ordinance to City Council is delayed, the City will pay for Work performed prior to the time when the ordinance first was presented to City Council.

- F.** All documentation of Emergency Procurement Contracts shall be sent to the Chief Procurement Officer for record keeping purposes.
- G.** Emergency Procurement Contracts, whether or not signed by the Contractor, shall be deemed to contain a termination for convenience clause permitting the City to immediately terminate the Contract at its discretion and, unless the Contract was void, the City may pay the Contractor only for Work performed prior to the date of termination and the Contractor's unavoidable costs incurred as a result of the termination. The City shall not be liable for Contractor's anticipated lost profits or consequential damages as a result of the termination.
- H.** Pursuant to ORS 279C.380(4) and this rule, the Emergency Procurement Contract may also state that the City waives the requirement of furnishing a performance bond and payment bond for the Emergency Procurement Contract. Waiving those bonding requirements does not affect the separate Public Works bond requirement for the benefit of the Bureau of Labor and Industries (BOLI) in enforcing prevailing wage rate and overtime payment requirements. In addition, nothing herein shall prevent the Chief Procurement Officer or City Council from subsequently requesting such bonds from the Contractor after work begins.

**5.34.120 Selection of Substitute Contractor.**

If a Contractor provided a performance bond, the City may afford the Contractor's surety the opportunity to provide a substitute Contractor to complete performance of the Contract. A substitute Contractor shall perform all remaining Contract Work and comply with all terms and conditions of the Contract, including the provisions of the performance bond and the payment bond. Such substitute performance does not involve the Award of a new Contract and shall not be subject to the Competitive Procurement provisions of ORS Chapter 279C or these rules.

**5.34.130 Joint Cooperative Purchasing.**

(Amended by Ordinance No. 185898, effective February 20, 2013.)

- A.** The City may participate in, sponsor, conduct or administer Joint Cooperative Procurements for the acquisition of Public Improvements, provided that the Administering Contracting Agency's Solicitation and Award process for the original Contract was an open and impartial Competitive process that used source selection methods substantially equivalent to those found in Chapter 5.34.
- B.** A Solicitation and Award process uses source selection methods substantially equivalent to those identified in ORS 279C and Chapter 5.34 if the Solicitation and Award process:

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1. Calls for Award of a Contract on the basis of a lowest Responsible Bidder or a lowest and best Bidder determination in the case of Competitive Bids, or on the basis of a determination of the Proposer whose Proposal is most Advantageous based on evaluation factors set forth in the Request for Proposals in the case of Competitive Proposals when permitted by an exemption established by the City Council;
  2. Does not permit the application of any geographic preference that is more favorable to Bidders or Proposers who reside in the jurisdiction or locality favored by the preference than the preferences provided in ORS 279A.120(2); and
  3. Uses reasonably clear and precise Specifications that promote suitability for the purposes intended and that reasonably encourage competition.
- C. The City shall determine, in Writing, whether the Solicitation and Award process for an Original Contract arising out of a Cooperative Procurement for a Public improvement is substantially equivalent to those identified in ORS 279C and Chapter 5.34.
- D. Protests. Protests regarding the use of all types of cooperative Procurements shall be governed by the applicable provisions of Section 5.34.700 et seq.

**5.34.140 General Rules for Joint Cooperative Procurements; Fees.**

(Amended by Ordinance No. 183445, effective January 6, 2010.)

- A. If the City is the Administering Contracting Agency, then:
1. It may charge a fair and reasonable fee to Purchasing Contract Agencies that represent the excess costs of administering the Contract in light of the Purchasing Contracting Agencies use of that Contract; and
  2. Determine whether the Purchasing Contract Agency must enter into a Written agreement with it.
- B. If the City is a Purchasing Contracting Agency it is authorized to pay a fee to the Administering Contracting Agency that the Chief Procurement Officer determines is fair and reasonable in light of all the circumstances surrounding the Procurement, including the savings that may be obtained if a cooperative Procurement is used, the cost of the Procurement in relationship to the fee, and other factors as may be considered. If a fee is paid, it will be borne by the Bureau or portion of the City on whose behalf the Procurement is being made.

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**5.34.150 Competitive Bidding Requirement.**

(Amended by Ordinance Nos. 181547 and 185898, effective February 20, 2013.) The City shall solicit Bids for Public Improvement Contracts by Invitation to Bid ("ITB"), except:

- A. Contracts made with Qualified Nonprofit Agencies providing employment opportunities for disabled individuals, in which case the rules stated in Section 5.33.110 shall apply.
- B. Contracts, or classes of Contracts, exempted by the City Council pursuant to state law, including those stated in Section 5.34.830;
- C. A public improvement contract with a value of less than \$5,000;
- D. Contracts not exceeding \$100,000, if made under procedures for Competitive quotations pursuant to Section 5.34.160;
- E. Public improvement contracts Awarded as Emergency Contracts;
- F. Energy Savings performance contracts entered into in accordance with Chapter 5.34;
- G. Contracts where federal law overrides this Chapter;
- H. Contracts governed by ORS 279A.100 and Section 5.34.040 regarding affirmative action, and contracts identified in the Prime Contractor Development Program;
- I. Any other Contract that is not governed by ORS 279A, 279B and 279C; and
- J. Contracts exempted by the City Council acting as the Local Contract Review Board, from using an ITB process pursuant to ordinance, in which case the selection shall follow the rules set forth in Section 5.34.800 et seq. in regard to the alternative Contract method selected, unless the exemption authorizes a different method.

**5.34.160 Intermediate Procurements.**

(Amended by Ordinance Nos. 181547, 183445, 185898 and 189878, effective March 4, 2020.)

- A. Public Improvement Contracts estimated by the City not to exceed \$100,000, may be Awarded through the requirements of this rule.
- B. All Solicitation Documents for public improvements anticipated to exceed \$50,000 shall be in Writing and include the selection criteria to be utilized in selecting a Contractor and, if the criteria are not of equal value, their relative value or ranking. The criteria may be limited to price or some combination of price, experience, specific expertise, availability, project understanding, Contractor capacity, responsibility and similar factors.

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1. Written requests shall include the Bureau of Labor and Industries (BOLI) provisions regarding the prevailing wage, if the estimated cost exceeds \$50,000.
  2. If the estimated cost is less than \$50,000, but all Offers exceed \$50,000, then the Solicitation shall be cancelled and a new Solicitation Document, containing the BOLI provisions regarding prevailing wage, shall be included.
- C. Solicitation Document for public improvements estimated to be \$50,000 or less can be made orally, provided the City seeks at least three competitive quotations, and keeps a Written record of the sources and amounts of the quotations received. If three quotations are not reasonably available, the City shall make a Written record of the effort made to obtain those quotations.
- D. The City shall Award the Contract to the prospective Contractor whose Offer will best serve the interests of the City, taking into account the announced selection criteria. If Award is not made to the Offeror offering the lowest price, the City shall make a Written record of the basis for Award.
- E. Intermediate level Public Improvement Contracts may be increased above the original amount of Award by Change Order within the limitations pursuant to Subsection 5.34.020 C.3.

**5.34.300 Solicitation Documents; Required Provisions; Assignment or Transfer.**

(Amended by Ordinance Nos. 181547, 185898, 187373 and 189878, effective March 4, 2020.)

- A. The Solicitation Document for a public improvement Contract shall include the following:
1. Identification of the Public Improvement project, including the character of the Work, and applicable plans, Specifications and other Contract documents;
  2. Notice of any pre-Offer conference as follows:
    - a. The time, date and location of any pre-Offer conference;
    - b. Whether attendance at the conference will be mandatory or voluntary; and
    - c. That statements made by the City's representatives at the conference are not binding upon the City unless confirmed by Written Addendum;

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3. The deadline for submitting mandatory Prequalification applications and the class or classes of Work for which Offerors must be Prequalified if Prequalification is a requirement;
4. The name and title of the authorized City representative designated for receipt of Offers and contact representative (if different);
5. Instructions and information concerning the form and submission of Offers, including the address of the location to which Offers must be delivered, any Bid or Proposal Security requirements, and any other required information or special information, e.g., whether Offers may be submitted by Electronic means (see Section 5.34.340 regarding Electronic Procurement);
6. The time, date and place of Opening;
7. The time and date of Closing after which the City will not accept Offers, which time shall be not less than five (5) Days after the date of the last publication of the advertisement, and may, in the sole discretion of the City, direct or permit the submission and receipt of bids by electronic means. If the City is issuing an ITB that may result in a Public Improvement Contract with a value in excess of \$100,000, the City shall designate a time of Closing consistent with the first-tier Subcontractor disclosure requirements of ORS 279C.370(1)(b) and Section 5.34.493. For timing issues relating to Addenda, see Section 5.34.430;
8. The location where the Specifications for the Work may be reviewed;
9. A statement that each Bidder to an ITB must identify whether the Bidder is a "Resident Bidder," as defined in Subsection 5.33.010 A.75.;
10. If the Contract resulting from a Solicitation will be a Contract for a Public Work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. § 3141 to 3148), or both the state and federal prevailing rates of wage, a statement that no Offer will be received or considered by the City unless the Offer contains a statement by the Offeror as a part of its Offer that "Contractor agrees to be bound by and will comply with the provisions of ORS 279.838 or ORS 279C.840 or 40 U.S.C. § 3141 to 3148, or both";
11. A statement that the City will not receive or consider an Offer for a Public Improvement Contract unless the Offeror is registered with the Construction Contractors Board, or is licensed by the State Landscape Contractors Board.
12. Whether a Contractor or a Subcontractor under the Contract must be licensed under ORS 468A.720 regarding asbestos abatement projects;

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13. Contractor's certification of nondiscrimination in obtaining required Subcontractors in accordance with ORS 279A.110(4) and Section 5.34.040;
  14. How the City will notify Offerors of Addenda and how the City will make Addenda available (see Section 5.34.430); and
  15. When applicable, instructions and forms regarding First-Tier Subcontractor Disclosure requirements, as set forth in Section 5.34.493.
  16. A statement that the Offeror must obtain EEO certification and have a valid City business tax registration account, if required.
- B.** The Solicitation Document shall also contain the following information about the evaluation process:
1. A statement that the City may reject any Offer not in compliance with all prescribed Public Contracting procedures and requirements, and may reject for good cause all Offers upon the City's finding that it is in the public interest to do so;
  2. The anticipated Solicitation schedule, deadlines, protest process and evaluation process, if any;
  3. Evaluation criteria, including the relative value applicable to each criterion, that the City will use to determine the Responsible Bidder with the lowest Responsive Bid (where Award is based solely on price) or the Responsible Proposer or Proposers with the best Responsive Proposal or Proposals (where use of Competitive Proposals is authorized), along with the process the City will use to determine acceptability of the Work;
    - a. If the Solicitation Document is an Invitation to Bid, the City shall set forth any special price evaluation factors in the Solicitation Document. Examples of such factors include, but are not limited to, conversion costs, transportation cost, volume weighing, trade-in allowances, cash discounts, depreciation allowances, cartage penalties, and ownership or life-cycle cost formulas. Price evaluation factors need not be precise predictors of actual future costs; but, to the extent possible, such evaluation factors shall be objective, reasonable estimates based upon information the City has available concerning future use;
    - b. If the Solicitation Document is a Request for Proposals, the City shall refer to the additional requirements of Section 5.34.850;

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- C. The City shall include all Contract terms and conditions, including warranties, insurance and bonding requirements, that the City considers appropriate for the Public Improvement project.
- D. The City must include all applicable Contract provisions required by Oregon law as follows:
  - 1. Prompt payment to all Persons supplying labor or material; contributions to Industrial Accident Fund; liens and withholding taxes (ORS 279C.505(1)); and all provisions regarding accelerated or twice-monthly payment if required by the City's Standard Construction Specifications;
  - 2. Demonstrate that an employee drug testing program is in place (ORS 279C.505(2));
  - 3. If the Contract calls for demolition Work described in ORS 279C.510(1), a condition requiring the Contractor to salvage or recycle construction and demolition debris, if feasible and cost-effective;
  - 4. If the Contract calls for lawn or landscape maintenance, a condition requiring the Contractor to compost or mulch yard waste material at an approved site, if feasible and cost effective (ORS 279C.510(2));
  - 5. Payment of claims by public officers (ORS 279C.515(1));
  - 6. Contractor and first-tier Subcontractor liability for late payment on Public Improvement Contracts pursuant to ORS 279C.515(2), including the rate of interest;
  - 7. A Person's right to file a complaint with the Construction Contractors Board for all Contracts related to a Public Improvement Contract as provided in ORS 279C.515(3);
  - 8. Hours of labor in compliance with ORS 279C.520;
  - 9. Environmental and natural resources regulations (ORS 279C.525);
  - 10. Payment for medical care and attention to employees (ORS 279C.530(1));
  - 11. A Contract provision substantially as follows: "All employers, including Contractor, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements." (ORS 279C.530(2));



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12. Maximum hours, holidays and overtime (ORS 279C.540);
  13. Time limitation on claims for overtime (ORS 279C.545);
  14. Prevailing wage rates (ORS 279C.800 to 279C.870);
  15. Fee paid to BOLI (ORS 279C.830);
  16. BOLI Public Works Bond (ORS 279C.830(3));
  17. Retainage (ORS 279C.550 to 279C.570);
  18. Prompt payment policy, progress payments, rate of interest (ORS 279C.570);
  19. Contractor's relations with Subcontractors (ORS 279C.580);
  20. Notice of claim (ORS 279C.605);
  21. Contractor's certification of compliance with the Oregon tax laws in accordance with ORS 305.385; and
  22. Contractor's certification that all Subcontractors performing Work described in ORS 701.005(5) will be registered with the Construction Contractors Board. or licensed by the State Landscape Contractors Board in accordance with the Construction Contractor's Licensing Act before the Subcontractors commence Work under the Contract.
- E. Unless otherwise provided in the Contract, the Contractor shall not assign, sell, dispose of, or transfer rights, nor delegate duties under the Contract, either in whole or in part, without the City's prior Written consent, which must be approved as to form by the City Attorney's Office. Unless approved in Writing and approved as to form, such consent shall not relieve the Contractor of any obligations under the Contract. Any assignee or transferee shall be considered the agent of the Contractor and be bound to abide by all provisions of the Contract. If the City consents in Writing to an assignment, sale, disposal or transfer of the Contractor's rights or delegation of Contractor's duties, the Contractor and its surety, if any, shall remain liable to the City for complete performance of the Contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless the City otherwise agrees in Writing.

**5.34.310 Notice and Advertising Requirements; Posting.**

(Amended by Ordinance Nos. 181547, 183445, 185898 and 189878, effective March 4, 2020.)

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- A.** The City shall furnish “Notice” as set forth in Subsections 5.34.310 A.1. through 3. to a number of Persons sufficient for the purpose of fostering and promoting competition. The Notice shall indicate where, when, how and for how long the Solicitation Document may be obtained and generally describe the Public Improvement project or Work. The Notice may contain any other appropriate information. The City may charge a fee or require a deposit for the Solicitation Document. The City may furnish Notice using any method determined to foster and promote competition, including:
- 1.** Mailing Notice of the availability of Solicitation Documents to Persons that have expressed an interest in the City’s Procurements;
  - 2.** Placing Notice on the Oregon Department of Administrative Services’ Electronic Procurement System known as “ORPIN”(Oregon Procurement Information Network) or a successor electronic System; or
  - 3.** Placing Notice on the City’s Electronic Procurement System.
- B.** Pursuant to ORS 279C.360 and this rule, the City shall advertise every Solicitation for competitive bids or competitive proposals for a Public Improvement Contract, unless the City Council has exempted the Solicitation from the advertisement requirement as part of a competitive bidding exemption under ORS 279C.335 and Section 5.34.820.
- 1.** Unless the City publishes by Electronic Advertisement as permitted by Subsection 5.34.310 B.2., the City shall publish the advertisement for Offers at least once in at least one newspaper of general circulation in the area where the Contract is to be performed and in as many additional issues and publications as the City may determine to be necessary or desirable to foster and promote competition.
  - 2.** The City Council finds that publishing Notice Electronically is likely to be cost effective. The City may publish by Electronic Advertisement if:
    - a.** The City has published a Notice that it may publish future advertisements for Offers by Electronic Advertisement. The City shall publish such Notice weekly, for no less than four (4) consecutive weeks. The City Notice shall include the World Wide Web location (i.e., Uniform Resource Locator or URL) where the City will publish future Electronic Advertisements or alternatively, the Web location where the City will publish information on accessing the Electronic Advertisement via a Telnet application;
    - b.** The City posts in its business office a Notice that the City will publish advertisements for Offers by Electronic Advertisement for

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no less than four consecutive weeks. The Notice shall include the World Wide Web location (i.e., Uniform Resource Locator or URL) where the City publishes Electronic Advertisements or alternatively, the Web location where the City publishes information on accessing the Electronic Advertisement via Telnet; and

- c. In addition to the City's publication required under Subsection 5.34.310 B.2.a. or b., the City shall also publish an advertisement for Offers in at least one trade newspaper of general statewide circulation if the Contract is for a Public Improvement with an estimated cost in excess of \$125,000.
- d. All advertisements for Offers shall set forth:
  - (1) The Public Improvement project;
  - (2) The location where Contract terms, conditions and Specifications may be reviewed;
  - (3) The date that Persons must file applications for Prequalification under ORS 279C.340, if Prequalification is a requirement, and the class or classes of Work for which Persons must be Prequalified;
  - (4) The scheduled Closing, which shall not be less than five (5) Days after the date of the last publication of the advertisement;
  - (5) The name, title and address of the City Person authorized to receive Offers;
  - (6) The scheduled Opening; and
  - (7) If applicable, that the Contract is for a Public Work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. § 3141 to 3148).

- C. The City shall post a copy of each advertisement for Offers at Procurement Services. An Offeror may obtain a copy of the advertisement for Offers upon request to the Bureau.

**5.34.320 Specifications and Brand Names.**

(Amended by Ordinance Nos. 183445, 184403 and 185898, effective February 20, 2013.)

- A. Specification content is in the sole discretion of the City of Portland, subject to statutory restrictions on the use of brand names.

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- B.** The City may consult with technical experts, suppliers, prospective contractors and representative of the industries with which the City will Contract. The City shall take reasonable measure to ensure that no Person who prepares or assists in the preparation of Solicitation Documents, Specifications, plans or Scope of Work (collectively, “documents”), and that no business with which the Person is associated realizes a material competitive advantage that arises from the City’s use of those documents.
- C.** A “brand name or equal” Specification may be used when it is Advantageous to the City, because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the City. The City’s determination of what constitutes a product that is equal or superior to the product specified is final. Unless otherwise specified, the use of a brand name shall mean “brand name or equal”.
- D.** A “brand name” Specification may be used requiring a Contractor to provide a specific brand when the Chief Procurement Officer, or designee, makes the following findings:

  - 1.** The use of a brand name Specification is unlikely to encourage favoritism in the Awarding of a Public Contract or substantially diminish competition for Public Contracts: or
  - 2.** The use of a brand name Specification would result in a substantial cost savings to the City; or
  - 3.** There is only one manufacturer or seller of the product of the quality, performance or functionality required; or
  - 4.** Efficient utilization of existing equipment, or supplies requires the acquisition of compatible equipment or supplies
- E.** The City's use of a brand name specification is subject to protest and review only as provided in Section 5.34.720.

**5.34.330 Facsimile Bids and Proposals.**

(Repealed by Ordinance No.189878, effective March 4, 2020.)

**5.34.340 Electronic Procurement.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A.** General. If the Public Improvement Contract has an estimated cost in excess of \$125,000, the advertisement must be published in at least one trade newspaper of general statewide circulation, except in circumstances where the Chief Procurement Officer finds that Electronic Advertisements are likely to be cost effective.

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- B.** The City may post a notice of Intent to Award a Contract Electronically at least seven (7) Days before the Award of a Public Contract.
- C.** Required Factors. In determining whether to authorize Electronic Bids or Proposals, the City shall consider factors such as:
1. Anticipated Bid or Proposal size and volume;
  2. Whether there is an urgent need for the Work being procured;
  3. Frequency of price changes;
  4. Availability, reliability, speed, and capacity of the receiving Electronic equipment;
  5. Adequacy of administrative procedures and controls for receiving, identifying, recording, and safeguarding Electronic Bids or Proposals, and ensuring their timely delivery to the Bid or Proposal Opening location; and,
  6. The means and method for sealing or securing the transmitted documents to preserve the sealed requirement of competitive Procurement.
- D.** Security. If Bid or Proposal Security is required, Electronic submission shall not be authorized unless the City has provided another method for receipt of the security.
- E.** Authorization; Contents of Solicitation Document. Bids or Proposals may be submitted Electronically only if specifically authorized by the Solicitation Document. If Electronic transmission is authorized, the City shall include provisions substantially similar to the following in the City's Solicitation Document:
1. Definition. Electronic Bid or Proposal, as used in this Solicitation Document, means a Bid or Proposal, modification of a Bid or Proposal, or withdrawal of a Bid or Proposal that is Electronically transmitted to and received by the City, in the manner specified in the Solicitation Document.
  2. Timely Submission. Bidders or Proposers may submit Electronic Bids or Proposals in response to this Solicitation Document. The entire Electronic Bid or Proposal shall arrive at the place and by the time specified in the Solicitation Document.
  3. Rejection of Bids or Proposals. Electronic Bids or Proposals that fail to furnish required representations or information, that are contingent or that reject or take exception to any of the terms, conditions, and provisions of

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the Solicitation Document, may be rejected and excluded from consideration, as otherwise provided by this Chapter.

4. Signatures. Electronic Bids or Proposals shall contain the required signatures.
5. Request for Original. The City reserves the right to Award the Contract solely on the Electronic Bid or Proposal. However, if requested to do so by the City, the apparently successful Bidder or Proposer agrees to promptly submit the complete original signed Bid or Proposal.
6. Transmission Information. Data and compatibility characteristics.
7. Non-Responsibility for Transmission Failure. If the Bidder or Proposer chooses to transmit an Electronic Bid or Proposal, the City shall not be responsible for any failure attributable to the transmission or receipt of the Electronic Bid or Proposal regardless of cause.

**5.34.410 Bid or Proposal Security.**

(Amended by Ordinance Nos. 181547, 183445, 185898 and 187373, effective October 14, 2015.)

- A. **Security Amount.** If The City requires Bid or Proposal Security, it shall be not more than 10 percent of the Offeror's Bid or Proposal. The City shall not use Bid or Proposal Security to discourage competition. The City shall clearly state any Bid or Proposal Security requirements in its Solicitation Document. The Offeror shall forfeit Bid or Proposal Security after Award if the Offeror fails to execute the Contract and promptly return it with any required Performance Bond, Payment Bond and any required proof of insurance. See ORS 279C.365(5) and ORS 279C.385. See also, Section 5.34.915 and BOLI rules regarding the separate requirement for a Public Works Bond.
- B. **Requirement for Bid Security (Optional for Proposals).** Unless The City Council has exempted a Solicitation, or class of Solicitations, from Bid security pursuant to ORS 279C.390, the City shall require Bid security for its Solicitation of Bids for Public Improvements. This requirement applies only to Public Improvement Contracts with a value, estimated by the City, of more than \$150,000. The Chief Procurement Officer nonetheless may require Bid security from any Offeror, or for any project, even if the City Council has exempted a class of Solicitations from Bid security if the Chief Procurement Officer believes it necessary to secure payment and performance. The Chief Procurement Officer may require Proposal Security in RFPs. (see ORS 279C.400(5)).
- C. **Form of Bid or Proposal Security.** The City may accept only the following forms of Bid or Proposal Security:

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1. A surety bond, signed by the surety's authorized Attorney in Fact, from a company authorized to do business in the State of Oregon and that is duly listed in the United States Treasury list as published in the Federal Register, or which is otherwise approved by the City Attorney. The surety company's seal shall be affixed to the bond and a Power of Attorney for the Attorney in Fact shall be submitted. The City Attorney has the authority to waive the requirement of the corporate seal: or
  2. A signed irrevocable letter of credit issued by an insured institution as defined in ORS 706.008(12); or
  3. A Cashier's check, or Offeror's certified check.
- D. Return of Security.** The City shall return or release the Bid or Proposal Security of all unsuccessful Offerors after a Contract has been fully executed and all required Bonds have been provided, or after all Offers have been rejected. The City may return the Bid or Proposal Security of unsuccessful Offerors prior to Award if the return does not prejudice Contract Award and the Security of at least the Bidders with the three lowest Bids, or the Proposers with the three highest scoring Proposals, is retained pending execution of a Contract.

**5.34.420 Pre-Offer Conferences.**

(Amended by Ordinance Nos. 185898 and 189878, effective March 4, 2020.)

- A. The City may hold pre-Offer conferences with prospective Offerors prior to Closing, to explain the Procurement requirements, obtain information or to conduct site inspections.
- B. The City may require attendance at the pre-Offer conference as a condition for making an Offer. Unless otherwise specified in the Solicitation Document, a mandatory attendance requirement is considered to have been met if, at any time during the mandatory meeting, a representative of an offering firm is documented to be or have been present.
- C. If the City holds a pre-Offer conference, it shall be held within a reasonable time after the Solicitation Document has been issued, but sufficiently before the Closing to allow Offerors to consider information provided at that conference.
- D. Statements made by the City's representative at the pre-Offer conference, or elsewhere do not change the Solicitation Document unless the City confirms such statements with a Written Addendum to the Solicitation Document.
- E. The City must set forth notice of any pre-Offer conference in the Solicitation Document in accordance with Section 5.34.300.

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**5.34.430 Addenda to Solicitation Documents.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A.** Issuance; Receipt. A Solicitation Document may be changed only by a Written Addendum. An Offeror shall provide Written acknowledgment of receipt of all issued Addenda with its Offer, unless the City otherwise specifies in the Addenda or Solicitation Document. If an Offeror submits an Offer and the Solicitation Document states that the Offeror is bound by all Addenda published in accordance with these rules, then the Offeror shall be bound by all Addenda so issued.
- B.** Notice and Distribution. The City shall notify prospective Offerors of Addenda consistent with the standards of Notice set forth in Section 5.34.310. The Solicitation Document shall specify how the City will provide Notice of Addenda and how the City will make the Addenda available (see, Section 5.34.300). For example, the Solicitation Document could say: “City will not mail Notice of Addenda, but will publish Notice of any Addenda on City's Web site.” Addenda may be downloaded off the City's Web site. Offerors should frequently check the City's Web site until Closing, (i.e., at least once weekly until the week of Closing and at least once daily the week of the Closing).
- C.** Timelines; Extensions. The City shall issue Addenda within a reasonable time to allow prospective Offerors to consider the Addenda in preparing their Offers. The City should extend the Closing if the Chief Procurement Officer determines prospective Offerors need additional time to review and respond to Addenda. Except to the extent that the Chief Procurement Officer determines that the public interest requires it, the City shall not issue an Addendum less than 72 hours before the Closing unless the Addendum also extends the Closing. Notice of the Addenda shall be deemed to occur when the Addendum is posted on the City's web site or upon mailing, whichever is applicable. If both occur, the notification is complete when the first of these two events occur.
- D.** Request for Change or Protest. Unless a different deadline is set forth in the Addendum, an Offeror must submit a Written request for change or protest to the Addendum, as provided in Section 5.34.440 by the close of the City's next business Day after issuance of the Addendum. The City shall consider only an Offeror's request for change or protest to the Addendum; the City shall not consider a request for change or protest to matters not added or modified by the Addendum. Notwithstanding any provision of this Paragraph, the City is not required to provide a protest period for Addenda issued during a multi-tiered Solicitation process pursuant to Section 5.34.850.

**5.34.440 Request for Clarification or Change.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)



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- A.** Time for submission of request for change. Unless otherwise provided in the Solicitation Document, an Offeror shall deliver any request for change to the Solicitation Document, Specifications or Contract provisions to the City in Writing within seven (7) Days prior to Bid or Proposal Closing. Requests for change in regard to Addenda shall be submitted in accordance within the time permitted by Subsection 5.34.430 D.
- B.** Any request for change shall include a detailed statement of the legal and factual reasons for the request for change; any proposed changes to Specifications or Contract provisions; and a description of any prejudice to the Offeror; and a statement of the form of relief requested. No request for change of the content of the Solicitation Document, Specifications or Contract provisions shall be considered after the deadline established for submitting such request. The City shall notify the Offeror if the City entirely rejects the request. If the City agrees with the request, in whole or in part, the City shall either issue an Addendum reflecting the change or cancel the Solicitation.
- C.** Extension of Closing date. If any request for change is timely received in accordance with these rules the Closing may be extended by the Chief Procurement Officer if it is determined that an extension is necessary to allow consideration of the request or issuance of any Addendum to the Solicitation Document.
- D.** Identification of request for change. Envelopes containing requests for change of the Solicitation Document, Specifications or Contract provisions shall be marked with the following information:

  - 1.** Solicitation Specification or Contract Provision Request for Change or Clarification; and
  - 2.** Solicitation Document Number or Other Identification.
- E.** A Proposer may request a change to add alternate terms and conditions for negotiation if the Solicitation Document permits negotiation. In this circumstance, request for change procedure shall be governed by the Solicitation Document and Subsections 5.34.840 E. and 5.34.850 F.
- F.** Clarification. Prior to the deadline for submitting a request for change, an Offeror may request in Writing that the City clarify any provision of the Solicitation Document or Contract. The City's clarification, whether oral or in Writing, does not change the Solicitation Document or Contract and is not binding on the City unless the City amends the Solicitation Document or Contract by Written Addenda.

**5.34.450 Offer Submissions.**

(Amended by Ordinance Nos. 181547, 185898 and 189878, effective March 4, 2020.)

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- A.** Offer and Acceptance. A Bid, Proposal or Price Quotation is an Offer to enter into a Contract. The Offer is a “Firm Offer,” i.e., the Offer shall be held open by the Offeror for the City’s acceptance for not less than 60 Days from closing unless otherwise specified in the Solicitation Document. After the 60 Days the Offer may lapse unless extended. The extension may occur after the expiration of the 60-Day period.
- B.** The Offer may be extended beyond 60 Days if the Offeror and the City so agree. If agreement is reached the time period for extension shall be reduced to Writing and the Offer will remain valid, irrevocable and binding on the Offeror for the agreed-upon extension period.
- C.** The City’s Award of the Contract constitutes acceptance of the Offer and binds the Offeror to the Contract.
- D.** Responsive Offer. The City may Award a Contract only to a Responsible Offeror with a Responsive Offer.
- E.** A competitive Proposal is a “Firm Offer” a period of not less than 90 days unless the solicitation document states a different time period. But the City may elect to discuss or negotiate certain contractual provisions, as identified in these rules or in the Solicitation Document with the Proposer. Where negotiation is permitted by the rules or the Solicitation Document, Proposers are bound to an obligation to negotiate in good faith and only on those terms and the rules or the Solicitation Document has reserved for negotiation.
- F.** The City may Award a Contract only to a Responsible Offeror with a Responsive Offer.
- G.** Contingent Offers. Except to the extent that a Proposer is authorized to propose certain terms and conditions pursuant to Section 5.34.850, a Proposer shall not make, and the City shall not accept, an Offer contingent upon the City’s acceptance of any terms or conditions (including Specifications) other than those contained in the Solicitation Document.
- H.** Offeror's Acknowledgement. By signing and returning the Offer, the Offeror acknowledges it has read and understands the terms and conditions contained in the Solicitation Document and that it accepts and agrees to be bound by the terms and conditions of the Solicitation Document. If the Request for Proposals permits Proposal of alternative terms under Section 5.34.850, the Offeror's Offer includes the nonnegotiable terms and conditions and any proposed terms and conditions offered for negotiation upon and to the extent accepted by the City in Writing.
- I.** Instructions. An Offeror shall submit and Sign its Offer in accordance with the Solicitation Document. Bids requiring a Written and non-electronic signature shall

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be signed in ink by an Authorized Representative of the Offeror. An Offeror shall initial and submit any correction or erasure to its Offer prior to the Opening in accordance with the requirements for submitting an Offer under the Solicitation Document.

- J.** Forms. An Offeror shall submit its Offer on the form(s) provided in the Solicitation Document, unless an Offeror is otherwise instructed in the Solicitation Document.
- K.** Documents. An Offeror shall provide the City with all documents and Descriptive Literature required under the Solicitation Document.
- L.** Electronic Submissions If the City permits Electronic Offers in the Solicitation Document, the Offeror may submit Electronic Offers in accordance with the Solicitation Document. The City shall not consider Electronic Offers unless authorized by the Solicitation Document.
- M.** Product Samples and Descriptive Literature. The City may require Product Samples or Descriptive Literature if it is necessary or desirable to evaluate the quality, features or characteristics of the offered items. The City will dispose of Product Samples, or return or make available for return Product Samples to the Offeror in accordance with the Solicitation Document.
- N.** Identification of Offers.
  - 1.** To ensure proper identification and handling, Offers shall be submitted in a sealed envelope appropriately marked or in the envelope provided by the City, whichever is applicable.
  - 2.** The City is not responsible for Offers submitted in any manner, format or to any delivery point other than as required in the Solicitation Document.
- O.** Receipt of Offers. The Offeror is responsible for ensuring that the City receives its Offer at the required delivery point prior to the Closing, regardless of the method used to submit or transmit the Offer.

**5.34.460 Pre-Closing Modification or Withdrawal of Offers.**

(Amended by Ordinance No. 185898, effective February 20, 2013.)

- A.** Modifications. Once submitted, Bids or Proposals may only be modified in Writing prior to the time and date set for Bid or Proposal Closing. Unless otherwise provided in the Solicitation Document, any modifications shall be prepared on the Bidder's or Proposer's letterhead, signed by an Authorized Representative of the Bidder or Proposer, state that the new document supersedes or modifies the prior Bid or Proposal and be submitted in a sealed envelope, appropriately marked. The City may accept modifications Electronically only if it has authorized Electronic

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submittal in the Solicitation Document. To ensure the integrity of the Bidding process, the envelope or Electronic submission containing any modifications to a Bid or Proposal shall be marked with the following information:

1. Bid or Proposal Modification.
2. Solicitation Number or Other Identification.

**B. Withdrawals:**

1. Bids or Proposals may be withdrawn by a Written notification of the Bidder or Proposer. The notice shall be signed by an Authorized Representative of the Bidder or Proposer, and must be received prior to the time and date set for Bid or Proposal Closing.
2. Written notifications to withdraw Bid or Proposal shall be marked with the following information:
  - a. Bid or Proposal Withdrawal.
  - b. Solicitation Number or Other Identification.

**C. Documentation.** All documents relating to the modification or withdrawal of Bids or Proposals shall be made a part of the appropriate Bid or Proposal Solicitation file.

**D. Late Requests for Modification or Withdrawal.** Any request for modification or withdrawal of a Bid or Proposal made after the time for Bid or Proposal Closing is late as provided by Section 5.34.480. Any late submission shall be returned to the Bidder or Proposer unopened. If any late submission is opened inadvertently, the procedure provided by Section 5.34.470 shall apply except the submission shall be returned to the sender.

**5.34.470 Receipt, Opening and Recording of Offers.**

(Amended by Ordinance No. 183445, effective January 6, 2010.)

- A. Receipt.** Each Offer, and modifications to Offers, shall, upon receipt, be Electronically or mechanically time-stamped by Procurement Services time clock, or marked by hand, but not opened, and shall be stored in a secure place until Bid or Proposal Opening. If Offers or modifications are opened inadvertently or opened prior to the time and date set for Bid or Proposal Opening because they were improperly identified by the Offeror, the opened Offers or modification documents shall be resealed and stored for Opening at the correct time. When this occurs, documentation of the resealing shall be placed in the file.

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- B.** Opening and Recording. Offers and modifications to Offers shall be opened publicly, at the time, date, and place designated in the Solicitation Document. In the case of Invitations to Bid, to the extent practicable, the name of each Bidder, the Bid price(s), and such other information as considered appropriate shall be read aloud. In the case of Requests for Proposals or on voluminous Bids, the City may advise Bidders and Proposers, as part of the Solicitation Documents, that the Bid or Proposal items and prices will not be read aloud.
- C.** Availability. After Opening, the City shall make Bids available for public inspection, but pursuant to ORS 279C.410. Proposals are not subject to disclosure until after notice of intent to Award is issued. In any event, the City may withhold from disclosure those portions of an Offer that the Offeror designates trade secrets or as confidential proprietary data in accordance with the Oregon Public Records Law, ORS 192.410 et seq. Application of the Oregon Public Records Law ORS 192.410 et seq. shall determine if the information designated as confidential and claimed to be exempt is in fact exempt from disclosure. To the extent the City determines the designated information is not in accordance with applicable law, the City shall make those portions available for public inspection. In order to facilitate public inspection of the non-confidential portion of the Bid or Proposal, material designated as confidential shall accompany the Offer, but the Offeror shall separate it, if requested, from the remainder of the Offer. Prices, makes, model or catalog numbers of items offered, scheduled delivery dates, and terms of payment shall be publicly available regardless of the Offeror's designation to the contrary. Copies of public records will be made available upon payment of the City's charges.

**5.34.480 Late Bids, Late Withdrawals and Late Modifications.**

(Amended by Ordinance Nos. 183445, 185898 and 189878, effective March 4, 2020.)

- A.** Any Offer received after Closing is late. An Offeror's request for withdrawal or modification of an Offer received after Closing is late. The City shall not consider late Offers, withdrawals or modifications, except as permitted by Sections 5.34.490 (Mistakes) or 5.33.610 (Offer Evaluation and Award).
- B.** For manual submissions of Offers, Procurement Services' time clock shall be the clock of record and the date and time imprint of that clock on an Offer shall determine the timeliness of the submission. Late manual submissions shall be returned to the Offeror unopened with a copy of the envelope containing the Bureau's time stamp on the Offer retained for the Solicitation file.
- C.** For Electronic submissions, when permitted, the time shown by the City as to the date of arrival of the Electronic submission shall determine the timeliness of the submission. Late Electronic submissions shall be deleted from the City's files, returned Electronically to the Offeror and the time of the submission and the time of return shall be documented in the Solicitation file.

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- D. Failure to properly return or dispose of a late submission does not mean an Offer or submission arrived on time.

**5.34.490 Mistakes.**

- A. General. To protect the integrity of the competitive Solicitation process and to assure fair treatment of Offerors, the City should carefully consider whether to permit a waiver, correction or withdrawal of an Offer for certain mistakes.
- B. Treatment of Mistakes. Errors in judgment do not permit an Offeror to correct or withdraw an Offer. Mistakes that constitute a minor informality may be waived or corrected. Mistakes that constitute clerical errors may be corrected or withdrawn in the City's discretion pursuant to this rule.
- C. City notification. If the City believes the Offer contains a mistake the City shall notify the Offeror, note the apparent mistake and request that the Offeror verify the Offer in writing, or by electronic transmission within one business day after notification.
- D. Failure of Offeror to Respond. If the Offeror fails to respond within one business day after notification of the apparent mistake, the City shall consider the Offer as submitted unless the amount of the Offer is so far out of line with the amounts of other bids received, or with the amount estimated by the City, or there are other indications of error so clear, as to reasonably justify the conclusion or that acceptance of the Offer would be unfair to the Offeror or to other bona fide Offerors, in which case the City shall be entitled to reject the Offer. The City may extend the time for response for good cause shown.
- E. Verification. If the Offeror verifies its Offer, the City must consider the Offer as originally submitted. However, in fairness to other Offerors, verification does not preclude the City from rejecting the Offer if it is clear that a mistake has been made and the City determines the intended Offer is not evident.
- F. Minor Informality. If the Offeror verifies its Offer, and the City sees no reason for rejection, the City may waive or permit the Offeror to correct a mistake that constitutes a minor informality. A minor informality is a matter of form, rather than substance, that is evident on the face of the Offer and which can be corrected or waived without prejudice to the public or other Offerors. Examples of a minor informality include a failure to:
  - 1. Return the correct number of Signed Offers or the correct number of other documents required by the Solicitation Document;
  - 2. Sign the Offer in the designated block, provided, however, that a Signature appears elsewhere in the Offer that evidences the Offeror's intent to be bound; or

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3. Acknowledge receipt of an Addendum to the Solicitation Document, provided it is clear on the face of the Offer that the Offeror received the Addendum and intended to be bound by its terms.
- G. Clerical Mistakes.** If the Offeror does not verify its Offer, but contends a clerical mistake caused a different Offer than intended to be submitted, or verifies the Offer but contends a clerical mistake should be corrected within a portion of the Offer, the City may in its discretion permit correction if the conditions of this section are met.
1. Only clerical mistakes can be corrected. A clerical mistake is not a mistake of judgment. Examples of clerical mistakes include typographical mistakes, errors in extending unit prices, transposition errors, arithmetical errors, misplacement of a decimal point, and instances in which the intended correct price is evident by simple arithmetic calculations.
  2. If correction of the Offer would result in displacement of one or more lower Offers submitted by other Offerors, the correction is permitted if, and only if, both the existence of the mistake and the Offer actually intended are ascertainable from the Solicitation Document and the Offer itself.
  3. If correction of the Offer would not result in the displacement of one or more lower Offers submitted by other Offerors, correction may be permitted if the Offeror provides the City with clear and convincing supporting evidence of the mistake and intended Offer within two business days after the City's initial notification of the mistake. The City may extend the time for response for good cause shown.
    - a. Supporting evidence shall include all pertinent evidence, such as the Offeror's file copy of its Offer, the original worksheets and other data used in preparing the Offer, subcontractors' quotations, if any, and any other evidence that establishes the existence of a clerical mistake, the manner in which it occurred and the Offer actually intended.
    - b. The closer the corrected Offer is to the next lowest Offer the greater the need for the City to be sure that it has clear and convincing evidence that permits a correction to ensure the integrity of the competitive process.

**5.34.493 First-Tier Subcontractors; Disclosure and Substitution.**  
(Amended by Ordinance Nos. 183445 and 189878, effective March 4, 2020.)

- A. Required Disclosure.** Within two working hours after the Bid Closing on an ITB for a Public Improvement having a Contract Price estimated by the City to exceed

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\$100,000, all Bidders shall submit to the City a disclosure form as described by ORS 279C.370(2), identifying any first-tier Subcontractors that will be furnishing labor or labor and materials on the Contract, if Awarded, whose subcontract value would be equal to or greater than:

1. Five percent of the total Contract Price, but at least \$15,000; or
2. \$350,000, regardless of the percentage of the total Contract Price.

**B.** Bid Closing, Disclosure Deadline and Bid Opening. For each ITB to which this rule applies, the City shall:

1. Set the Bid Closing on a Tuesday, Wednesday or Thursday, and at a time between 2 p.m. and 5 p.m., except that these Bid Closing restrictions do not apply to an ITB for maintenance or construction of highways, bridges or other transportation facilities, and provided that the two-hour disclosure deadline described by this rule would not then fall on a legal holiday;
2. Open Bids publicly immediately after the Bid Closing; and
3. Consider for Contract Award only those Bids for which the required disclosure has been submitted by the announced deadline on forms prescribed by the City.

**C.** Bidder Instructions and Disclosure Form. For the purposes of this rule, the City in its Solicitation shall:

1. Prescribe the disclosure form that must be utilized, substantially in the form set forth in ORS 279C.370(2); and
2. Provide instructions in a notice substantially similar to the following:

“Instructions for First-Tier Subcontractor Disclosure

Bidders are required to disclose information about certain first-tier Subcontractors (see ORS 279C.370). Specifically, when the Contract Amount of a first-tier Subcontractor furnishing labor or labor and materials would be greater than or equal to:

- a. 5 percent of the project Bid, but at least \$15,000; or
- b. \$350,000 regardless of the percentage, the Bidder must disclose the following information about that subcontract either in its Bid submission, or within two hours after Bid Closing:

- (1) The Subcontractor's name,



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- (2) The category of Work that the Subcontractor would be performing, and
- (3) The dollar value of the subcontract.

If the Bidder will not be using any Subcontractors that are subject to the above disclosure requirements, the Bidder is required to indicate "NONE" on the accompanying form.

THE CITY MUST REJECT A BID IF THE BIDDER FAILS TO SUBMIT THE DISCLOSURE FORM WITH THIS INFORMATION BY THE STATED DEADLINE."

- D.** Submission. A Bidder shall submit the disclosure form required by this rule either in its Bid submission, or within two (2) working hours after Bid Closing in the manner specified by the ITB.
- E.** Responsiveness. Compliance with the disclosure and submittal requirements of ORS 279C.370 and this rule is a matter of Responsiveness. Bids that are submitted by Bid Closing, but for which the disclosure submittal has not been made by the specified deadline, are not Responsive and shall not be considered for Contract Award.
- F.** City Role. The City shall obtain, and make available for public inspection, the disclosure forms required by ORS 279C.370 and this rule. The City also shall provide copies of disclosure forms to the Bureau of Labor and Industries as required by ORS 279C.835. The City is not required to determine the accuracy or completeness of the information provided on disclosure forms.
- G.** Substitution. Substitution of affected first-tier Subcontractors shall be made only in accordance with ORS 279C.585. Contracting Agencies shall accept Written submissions filed under that statute as public records. Aside from issues involving inadvertent clerical error under ORS 279C.585, the City is not under an obligation to review, approve or resolve disputes concerning such substitutions. See ORS 279C.590 regarding complaints to the Construction Contractors Board on improper substitution. Substitution of COBID Certified Firms are also subject to the City's Solicitation Document.

**5.34.500 Responsibility of Offerors.**

(Amended by Ordinance Nos. 181547, 183445, 185898 and 189878, effective March 4, 2020.)

- A.** Contracts shall be Awarded only to Responsible Offerors. Pursuant to ORS 279C.375, the City shall consider whether the Offeror has:

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1. Available the appropriate financial, material, equipment, facility and personnel resources and expertise, necessary to indicate the capability of the prospective Offeror to meet all contractual responsibilities;
2. Has completed previous contracts of a similar nature with a satisfactory record of performance. A satisfactory record of performance means that to the extent the costs associated with and time available to perform a previous contract were within the Offeror's control, the Offeror stayed within the time and budget allotted for the procurement and otherwise performed the contract in a satisfactory manner. The City should carefully scrutinize an Offeror's record of contract performance if the Offeror is or recently has been materially deficient in contract performance. In reviewing the Offeror's performance, the City should determine whether the Offeror's deficient performance was expressly excused under the terms of the contract, or whether the Offeror took appropriate corrective action. The City may review the Offeror's performance on both private and Public Contracts in determining the Offeror's record of contract performance. Among the matters the City may review in this regard is whether the Offeror has a record of material violations of state or federal prevailing wage laws. The City shall document the record of performance of a prospective Offeror if the City finds the prospective Offeror non-Responsible under this Paragraph;
3. A satisfactory record of integrity. The City may find an Offeror not Responsible based on the lack of integrity of any Person having influence or control over the Offeror (such as a key employee of the Offeror that has the authority to significantly influence the Offeror's performance of the Contract or a parent company, predecessor or successor Person.) The standards for Conduct Disqualification may be used to determine an Offeror's integrity. The City may find an Offeror not Responsible based on previous convictions of offenses related to obtaining or attempting to obtain a Contract or subcontractor or in connection with the Offeror's performance of a Contract or subcontract. The City shall document the record of integrity of a prospective Offeror if the City finds the prospective Offeror non-Responsible under this Paragraph;
4. Is legally qualified to Contract with the City, including, but not limited to, an EEO Certification and a current, valid, business tax registration account from the City. Procurement Services may determine that a Person is not legally qualified if:
  - a. The Person does not have a business tax registration account with the City; or

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- b. The Person failed to make payments required by Title 7 of the City Code and has failed to make appropriate payment arrangements with the Revenue Bureau within seven (7) Days of the receipt of a Bid or Proposal, unless the City waives that requirement and decides to pursue collection through retention of Contract funds, or through other means.
  - 5. Supplied all necessary information in connection with the inquiry concerning responsibility. If a prospective Offeror fails to promptly supply information requested by the City concerning responsibility, the City shall base the determination of responsibility upon any available information or may find the prospective Offeror non-Responsible;
  - 6. Not been disqualified by the City pursuant to ORS 279C.440 and Section 5.34.530.
- B.** In the event the City determines an Offeror is not Responsible it shall prepare a Written determination of non-responsibility as required by ORS 279C.375.

**5.34.510 Prequalification of Offerors.**

(Amended by Ordinance Nos. 183445, 184403, 185065, 185898, 187373 and 189878, effective March 4, 2020.)

- A. The City of Portland requires prequalification of all prime construction contractors, except for prime construction contractors that are enrolled in the Prime Contractor Development Program, on public improvement contracts with an estimated value of \$500,000 or greater, per ORS 279C.430(1) which allows public agencies the option to adopt their own rules for mandatory prequalification of contractors desiring to bid for public improvement contracts let by that agency. The Chief Procurement Officer has the authority to require Prequalification for public improvement contracts \$500,000 or less. The City shall not consider a Bid from a Bidder that is not prequalified, if the City required Prequalification.
- B. Prequalification Application Forms. Contractors seeking to prequalify shall submit a City of Portland Prequalification application to Procurement Services. Within 30 days after receipt of a fully completed prequalification application, the City will evaluate the application as necessary to determine if the contractor is qualified in the classes of work requested. The determination shall be made in less than 30 days, if practicable, if the contractor requests an early decision to allow the contractor as much time as possible to prepare a bid on a contract that has been advertised.
- C. Standards for Prequalification. To qualify, a Bidder must demonstrate to the City’s satisfaction, that they are a Responsible Bidder based on criteria set forth in ORS 279C.375 (3)(b) and Section 5.34.500. If the City determines the Bidder is

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qualified, notification shall be sent stating the Bidder's qualified bidding limits, classes of work and the validity period of the Bidder's prequalification.

- D.** Special Prequalification. A separate special Prequalification may be required for a specific project, as contained in the Solicitation Document, when the City determines that the project is of a size, scope or complexity that Special Prequalification is required or such other circumstances exist, that in the opinion of the Chief Procurement Officer, a Special Prequalification would be of assistance in the selection of qualified contractors.
- E.** Updates. From time to time, the Chief Procurement Officer may update the Administrative Rules which govern the Prequalification of Contractors process. The Administrative Rules will determine the rules, policies, and practices by which Contractors are determined to be prequalified for City projects. City Council hereby delegates its authority to create and maintain this Prequalification program to the Chief Procurement Officer. The Chief Procurement Officer will review and adjust, if necessary, the Rules at least once each year.

**5.34.520 Eligibility to Bid or Propose; Registration or License.**

- A.** The City shall not consider a Person's Offer to do Work as a Contractor, as defined in ORS 701.005(2), unless the Person has a current, valid certificate of registration issued by the Construction Contractors Board at the time the Offer is made.
- B.** The City shall not consider a Person's Offer to do Work as a landscape Contractor as defined in ORS 671.520(2), unless the Person has a current, valid landscape contractors license issued pursuant to ORS 671.560 by the State Landscape Contractors Board at the time the Offer is made.
- C.** An Offer received from a Person that fails to comply with this rule is nonresponsive and shall be rejected as stated in ORS 279C.365(1)(k), unless contrary to federal law or subject to different timing requirements set by federal funding agencies.

**5.34.530 Disqualification of Persons.**

(Amended by Ordinance Nos. 183445, 185898, 187974 and 189878, effective March 4, 2020.)

- A.** Authority. The City may disqualify a Person from consideration of Award of the City's Contracts after providing the Person with notice and a reasonable opportunity to be heard in accordance with this rule.
  - 1.** Standards for Conduct Disqualification. As provided in ORS 279C.440, the City may disqualify a Person for:

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- a. Conviction for the commission of a criminal offense as an incident in obtaining or attempting to obtain a public or private Contract or subcontract, or in the performance of such Contract or subcontract;
        - b. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty that currently, seriously and directly affects the Person's responsibility as a Contractor;
        - c. Conviction under state or federal antitrust statutes; or
        - d. Violation of a Contract provision that is regarded by the City to be so serious as to justify Conduct Disqualification. A violation under Subsection 5.34.530 A.1.d. may include but is not limited to material failure to perform the terms of a Contract or an unsatisfactory performance in accordance with the terms of the Contract. However, a Person's failure to perform or unsatisfactory performance caused by acts beyond the Person's control is not a basis for Disqualification.
  2. For a DBE Disqualification under ORS 279A.110, the City may disqualify a Person if the City finds that the Person discriminated against COBID Certified Firm in Awarding a subcontract under a Contract with the City.
- B.** Notice of Intent to Disqualify. The City shall notify the Person in Writing of a proposed Disqualification personally or by registered or certified mail, return receipt requested. This notice shall:
1. State that the City intends to disqualify the Person;
  2. Set forth the reasons for the Disqualification;
  3. Include a statement of the Person's right to a hearing if requested in Writing within the time stated in the notice and that if the Chief Procurement Officer does not receive the Person's Written request for a hearing within the time stated, the Person shall have waived its right to a hearing;
  4. Include a statement of the authority and jurisdiction under which the hearing will be held;
  5. Include a reference to the particular sections of the statutes and rules involved;
  6. State the proposed Disqualification period; and

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7. State that the Person may be represented by legal counsel.
- C. Hearing. The Chief Procurement Officer shall schedule a hearing upon the receipt of the Person's timely request. The Chief Procurement Officer shall notify the Person of the time and place of the hearing and provide information on the procedures, right of representation and other rights related to the conduct of the hearing prior to hearing.
- D. Notice of Disqualification. The Chief Procurement Officer will notify the Person in Writing of its Disqualification, personally or by registered or certified mail, return receipt requested. The notice shall contain:
  1. The effective date and period of Disqualification;
  2. The grounds for Disqualification; and
  3. A statement of the Person's appeal rights and applicable appeal deadlines. For a Conduct Disqualification or a DBE Disqualification under ORS 279A.110, the disqualified Person must notify the Chief Procurement Officer in Writing within three (3) business Days after receipt of the notice of Disqualification if the Person intends to appeal the City's decision.

**5.34.535 COBID Certified Firm Prohibited Conduct; Sanctions; Appeals.**

(Added by Ordinance No. 187974; amended by Ordinance No. 189878, effective March 4, 2020.)

- A. If the City determines at any time during the term of a contract that a contractor to which the City awarded the contract on the basis described in ORS 279A.107 (1), or a subcontractor to which the contractor awarded a subcontract in connection with the contract on the basis described in ORS 279A.107 (1), is no longer certified, the City may:
  1. Terminate the contract;
  2. Require the contractor to terminate the subcontract; or
  3. Exercise any of the remedies for breach of contract that are reserved in the contract.
- B. Notwithstanding the scope of ORS 200.055 et seq., Section 5.33.540 or 5.34.535 applies to all projects, including, but not limited to, contracts, loans, grants, development agreements, and any other City-owned, City-sponsored or City-funded project.
- C. The City may investigate complaints alleging one or more of the following violations of ORS 200.065:

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1. Fraudulently obtaining or retaining certification as a disadvantaged, minority, woman, service-disabled veteran or emerging small business enterprise;
  2. Attempting to fraudulently obtain or retain certification as a disadvantaged, minority, woman, service-disabled veteran or emerging small business enterprise;
  3. Aiding another person to fraudulently obtain or retain certification as a disadvantaged, minority, woman, service-disabled veteran or emerging small business enterprise; or
  4. Knowingly make a false claim that any person is qualified for certification or is certified under ORS 200.055 (Certification of disadvantaged, minority, woman, service-disabled veteran or emerging small business enterprises) for the purpose of obtaining a public contract or subcontract or other benefit.
- D.** When the City investigates a complaint that a person has violated ORS 200.065, the City may require any additional information, and through the City Attorney's Office, administer oaths, take depositions, and issue subpoenas to compel witnesses to attend and to produce books, papers, records, memoranda or other information necessary for the City to complete its investigation. If a person fails to comply with any subpoena that the City issues under ORS 200.065 or refuses to testify on any matter on which a person may lawfully be interrogated, the City shall follow the procedure provided in ORS 183.440 to compel compliance.
- E.** The City may issue the following sanctions against any person for violating ORS 200.065:
1. Withhold payment;
  2. Suspend or terminate a public contract;
  3. Impose a civil penalty not to exceed 10 percent of the contract or subcontract price or \$5,000, whichever is less, for each violation; and
  4. Disqualify for up to 3 years from submitting a bid or proposal, or receiving an award of a public contract.
- F.** The City may also disqualify any person from bidding or participating in a public contract for a period of up to 3 years:
1. Who under oath during the course of an investigation admits to violating ORS 200.065 (1) or (2); or

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2. Upon notice of a finding of fraudulent certification by the Oregon Business Development Department or other public contracting agency.
- G.** Any bidder, proposer, contractor or subcontractor on a City contract that knowingly commits any of the following acts shall have its right to submit a bid or proposal for, or receive an award of, a City contract in the future suspended under ORS 200.075:
1. Entering into any agreement to represent that a disadvantaged, minority, woman, service-disabled veteran, or emerging small business enterprise certified under ORS 200.055 will perform work or supply materials under a public contract without the knowledge and consent of the disadvantaged, minority, woman, service-disabled veteran, or emerging small business enterprise.
  2. Exercising or permitting another bidder, proposer, contractor or subcontractor to exercise management and decision making control over the internal operations of a disadvantaged, minority, woman, service-disabled veteran, or emerging small business enterprise other than the bidder's, proposer's, contractor's or subcontractor's own business enterprise. As used in this paragraph, "internal operations" does not include normal scheduling, coordination, execution or performance as a subcontractor on a public contract.
  3. Using a disadvantaged, minority, woman, service-disabled veteran, or emerging small business enterprise to perform a public contract or subcontract or to supply material under a public contract to meet an established goal or requirement if the disadvantaged, minority, woman, service-disabled veteran, or emerging small business enterprise does not perform a Commercially Useful Function in carrying out responsibilities and obligations under the public contract.
  4. Failing to perform a Commercially Useful Function in performing a public contract or subcontract or in supplying material to a contractor or subcontractor that is performing a public contract or subcontract if the bidder, proposer, contractor or subcontractor is presented as a certified disadvantaged, minority, woman, service-disabled veteran, or emerging small business enterprise to meet an established goal or requirement.
- H.** The suspension shall be 1 year for a first violation, three years for a second violation and 5 years for a third violation. Each violation must remain on record for 5 years. After 5 years the City may not consider the violation in reviewing future violations.
- I.** Prior to suspending, disqualifying or otherwise sanctioning a person under Section 5.33.540 or 5.34.535, the City shall provide written notice to the person of a



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proposed sanction under ORS 200.065 or ORS 200.075, served personally or by registered or certified mail, return receipt requested. This notice shall include:

1. That the City intends to sanction;
  2. The effective date and period of the sanction, if applicable;
  3. The reason(s) for the sanction; and
  4. That the person has the right to request a hearing before the Code Hearings Officer in accordance with Section 3.130.020.
- J. The hearing shall be conducted in accordance with Chapter 22.10 and any administrative rules governing appeals to the Code Hearings Officer.

**5.34.600 Bid or Proposal Evaluation Criteria.**

(Amended by Ordinance No. 187373, effective October 14, 2015.)

- A. General. A Public Improvement Contract, if Awarded, shall be Awarded to the Responsible Bidder submitting the lowest Responsive Bid, or to the Responsible Proposer submitting the best Responsive Proposal.
- B. Bid Evaluation Criteria. Invitations to Bid may solicit lump-sum Offers, unit-price Offers or a combination of the two.
1. Lump Sum. If the ITB requires a lump-sum Bid, without additive or deductive alternates, or if the City elects not to Award additive or deductive alternates, Bids shall be compared on the basis of lump-sum prices, or lump-sum base Bid prices, as applicable. If the ITB calls for a lump-sum base Bid, plus additive or deductive alternates, the total Bid price shall be calculated by adding to or deducting from the base Bid those alternates selected by the City, for the purpose of comparing Bids.
  2. Unit Price. If the Bid includes unit pricing for estimated quantities, the total Bid price shall be calculated by multiplying the estimated quantities by the unit prices submitted by the Bidder, and adjusting for any additive or deductive alternates selected by the City, for the purpose of comparing Bids. The City shall specify within the Solicitation Document the estimated quantity of the Procurement to be used for determination of the low Bidder. In the event of mathematical discrepancies between unit price and any extended price calculations submitted by the Bidder, the unit price shall govern.
- C. Proposal Evaluation Criteria. If the City Council has exempted a Public Improvement from the Competitive Bidding requirements of ORS 279C.335(1), and has directed the use of an Alternative Contracting Method under ORS

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279C.335(3) and ORS 279C.337, evaluation criteria shall be set forth in the Solicitation Documents.

**5.34.610 Offer Evaluation and Award; Determination of Responsibility.**

(Amended by Ordinance Nos. 181547, 183445, 185898, 187373 and 189878, effective March 4, 2020.)

- A.** General. If Awarded, the City shall Award the Contract to the Responsible Bidder submitting the lowest, Responsive Bid or the Responsible Proposer or Proposers submitting the best, Responsive Proposal or Proposals, provided that such Person is not listed by the Construction Contractors Board as disqualified to hold a Public Improvement Contract. See ORS 279C.375(2)(a), or is ineligible for Award as a Nonresident (as defined in ORS 279A.120), education service district. The City may Award by item, groups of items or the entire Offer provided such Award is consistent with the Solicitation Document and in the public interest.
- B.** Determination of Responsibility. Offerors are required to demonstrate their ability to perform satisfactorily under a Contract. Before Awarding a Contract, the City must have information that indicates that the Offeror meets the standards of responsibility set forth in ORS 279.375C(3)(b). To be a Responsible Offeror, the City must determine that the Offeror:
1. Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to demonstrate the capability of the Offeror to meet all contractual responsibilities;
  2. Has a satisfactory record of Contract performance. The City should carefully scrutinize an Offeror's record of Contract performance if the Offeror is or recently has been materially deficient in Contract performance. In reviewing the Offeror's performance, the City should determine whether the Offeror's deficient performance was expressly excused under the terms of Contract, or whether the Offeror took appropriate corrective action. The City may review the Offeror's performance on both private and Public Contracts in determining the Offeror's record of Contract performance. The City shall make its basis for determining an Offeror not Responsible under this paragraph part of the Solicitation file;
  3. Has a satisfactory record of integrity. An Offeror may lack integrity if The City determines the Offeror demonstrates a lack of business ethics such as violation of state environmental laws or false certifications made to the City. The City may find an Offeror not Responsible based on the lack of integrity of any Person having influence or control over the Offeror (such as a key employee of the Offeror that has the authority to significantly influence the Offeror's performance of the Contract or a parent company, predecessor or

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successor Person). The standards for Conduct Disqualification under Section 5.34.540 may be used to determine an Offeror's integrity. The City shall make its basis for determining that an Offeror is not Responsible under this paragraph part of the Solicitation file;

4. Is in compliance with all of the City's contracting requirements, including having a current City business tax registration account and EEO/EB certification. Procurement Services may determine that such a Person is not legally qualified if:
    - a. The Person does not have a business tax registration account with the City; or
    - b. The Person failed to make payments required by Title 7 of the City Code and has failed to make appropriate payment arrangements with the Revenue Division of the Bureau of Revenue and Financial Services within seven (7) Days of the receipt of a Bid or Proposal, unless the City waives that requirement and decides to pursue collection through retention of Contract funds, or through other means.
  5. Has supplied all necessary information in connection with the inquiry concerning responsibility. If the Offeror fails to promptly supply information requested by the City concerning responsibility, the City shall base the determination of responsibility upon any available information, or may find the Offeror not Responsible.
- C.** Documenting City Determinations: The City shall document its compliance with ORS 279C.375(3) and the above sections of this rule on a Responsibility Determination Form substantially as set forth in ORS 279.375(3)(c) and file that form with the Construction Contractors Board within 30 days after Contract Award.
- D.** City Evaluation. The City shall evaluate an Offer only as set forth in the Solicitation Document and in accordance with applicable law. The City shall not evaluate an Offer using any other requirement or criterion.
- E.** Offeror Submissions.
1. The City may require an Offeror to submit Product Samples, Descriptive Literature, technical data, or other material and may also require any of the following prior to Award:
    - a. Demonstration, inspection or testing of a product prior to Award for characteristics such as compatibility, quality or workmanship;

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- b. Examination of such elements as appearance or finish; or
    - c. Other examinations to determine whether the product conforms to Specifications.
  - 2. The City shall evaluate product acceptability only in accordance with the criteria disclosed in the Solicitation Document to determine that a product is acceptable. The City shall reject an Offer providing any product that does not meet the Solicitation Document requirements. The City's rejection of an Offer because it offers nonconforming Work or materials is not Disqualification and is not appealable under ORS 279C.445 or these rules.
- F.** Evaluation of Bids. The City shall use only objective criteria to evaluate Bids as set forth in the ITB. The City shall evaluate Bids to determine the Responsible Offeror offering the lowest Responsive Bid.
- G.** Clarifications. In evaluating Bids, The City may seek information from a Bidder only to clarify the Bidder's Bid. Such clarification shall not vary, contradict or supplement the Bid. A Bidder must submit Written and Signed clarifications and such clarifications shall become part of the Bidder's Bid.
- H.** Evaluation of Proposals. See Section 5.34.850 regarding rules applicable to Requests for Proposals.
- I.** The City may award a public improvement Contract or may award multiple public improvement Price Agreements when specified in the Invitation to Bid or the Request for Proposals.

**5.34.620 Negotiation With Bidders Prohibited.**

(Amended by Ordinance No. 185898, effective February 20, 2013.)

- A.** Bids. Except as permitted by ORS 279C.340 and Section 5.34.640, when all Bids exceed the Cost Estimate, the City shall not negotiate with any Bidder prior to Contract Award. After Award of the Contract, the City and Contractor may modify the Contract only by change order or amendment to the Contract in accordance with these rules, or any applicable Contract provisions or ordinance.
- B.** Requests for Proposals. The City may conduct discussions or negotiations with Proposers only in accordance with the applicable requirements of Section 5.34.850.

**5.34.625 Contract Preferences; Resident Bidders.**

(Amended by Ordinance No. 185898, effective February 20, 2013.)

- A.** Award When Offers Identical. When the City receives Offers identical in price, fitness, availability and quality, and chooses to Award a Contract, the City shall Award the Contract based on the following order of precedence:

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1. The City shall Award the Contract to the Offeror among those submitting identical Offers that is offering Goods or Services that have been manufactured or produced in Oregon.
  2. If two or more Offerors submit identical Offers, and both offer Goods or Services manufactured or produced in Oregon, the City shall Award the Contract by drawing lots among the identical Offers offering Goods or Services that have been manufactured or produced in Oregon. The Offerors that submitted the identical Offers subject to the drawing of lots shall be given notice and an opportunity to be present when the lots are drawn.
  3. If the City receives identical Offers, and none of the identical Offers offer Goods or Services manufactured or produced in Oregon, then the City shall Award the Contract by drawing lots among the identical Offers. The Offerors that submitted the identical Offers subject to the drawing of lots shall be given notice and an opportunity to be present when the lots are drawn.
- B.** Determining if Offers are Identical. The City shall consider Offers identical in price, fitness, availability and quality as follows:
1. Bids received in response to an Invitation to Bid issued under ORS 279C.335 and Chapter 5.34 are identical in price, fitness, availability and quality if the Bids are Responsive, and offer the services described in the Invitation to Bid at the same price.
  2. Proposals received in response to a Request for Proposals issued under ORS 279C.400 and Chapter 5.34 are identical in price, fitness, availability and quality if they are Responsive and achieve equal scores when scored in accordance with the evaluation criteria set forth in the Request for Proposals.
- C.** Determining if Goods or Services are Manufactured or Produced in Oregon. For the purposes of complying with Subsection 5.34.625 A., the City may request, either in a Solicitation Document, following Closing, or at any other time determined appropriate by the City, any information it determines is appropriate and necessary to allow it to determine if the Goods or Services are manufactured or produced in Oregon. The City may use any reasonable criteria to determine if Goods or Services are manufactured or produced in Oregon, provided that the criteria reasonably relate to that determination, and provided that the same criteria apply equally to each Bidder or Proposer.
- D.** Procedure for Drawing Lots. In any instance when this Rule calls for the drawing of lots, the City shall draw lots by a procedure that affords each Offeror subject to the drawing a substantially equal probability of being selected, and that does not

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allow the Person making the selection the opportunity to manipulate the drawing of lots to increase the probability of selecting one Offeror over another.

**5.34.630 Reciprocal Preferences.**

(Amended by Ordinance Nos. 185898 and 187373, effective October 14, 2015.)

- A. When evaluating Bids pursuant to Section 5.34.610, the City shall add a percentage increase to the Bid of a Nonresident Bidder equal to the percentage, if any, of the preference that would be given to that Bidder in the state in which the Bidder resides.
- B. The City shall use the list prepared and maintained by the Oregon Department of Administrative Services pursuant to ORS 279A.120(4) to determine both
  - 1. whether the Nonresident Bidder's state gives preference to in-state Bidders, and
  - 2. the amount of such preference. Bidders or Proposers who believe that information is inaccurate shall notify the City prior to submitting their Bid to permit a reasonable investigation. Otherwise, the City shall rely on that information in making its determination.

**5.34.640 Negotiation When Bids Exceed Cost Estimate.**

(Amended by Ordinance Nos. 185898 and 189878, effective March 4, 2020.)

- A. Generally. In accordance with ORS 279C.340, if all Responsive Bids from Responsible Bidders on a competitively Bid Project exceed the City's Cost Estimate, prior to Contract Award the City may negotiate Value Engineering and Other Options with the Responsible Bidder submitting the lowest, Responsive Bid in an attempt to bring the Project within the City's Cost Estimate. The Subcontractor disclosure and substitution requirements of Section 5.34.493 do not apply to negotiations under this rule.
- B. Definitions. The following definitions apply to this administrative rule:
  - 1. **"Cost Estimate"** means the City's most recent pre-Bid, good faith assessment of anticipated Contract costs, consisting either of an estimate of an architect, engineer or other qualified professional, or confidential cost calculation Worksheets, where available, and otherwise consisting of formal planning or budgetary documents.
  - 2. **"Other Options"** means those items generally considered appropriate for negotiation in the RFP process, relating to the details of Contract performance as specified in Section 5.34.850, but excluding any material requirements previously announced in the Solicitation process that would likely affect the field of competition.

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3. **“Project”** means a Public Improvement.
  4. **“Value Engineering”** means the identification of alternative methods, materials or systems which provide for comparable function at reduced initial or life-time cost. It includes proposed changes to the plans, Specifications, or other Contract requirements which may be made, consistent with industry practice, under the original Contract by mutual agreement in order to take advantage of potential cost savings without impairing the essential functions or characteristics of the Public Improvement. Cost savings include those resulting from Life Cycle Costing, which may either increase or decrease absolute costs over varying time periods.
- C. Rejection of Bids. In determining whether all Responsive Bids from Responsible Bidders exceed the Cost Estimate, only those Bids that have been formally rejected, or Bids from Bidders who have been formally disqualified by the City, shall be excluded from consideration.
- D. Scope of Negotiations. Contracting Agencies shall not proceed with Contract Award if the Scope of the Project is significantly changed from the original Bid. The Scope is considered to have been significantly changed if the pool of competition would likely have been affected by the change; that is, if other Bidders would have been expected by the City to participate in the Bidding process had the change been made during the Solicitation process rather than during negotiation. This rule shall not be construed to prohibit re-solicitation of trade subcontracts.
- E. Discontinuing Negotiations. The City may discontinue negotiations at any time, and shall do so if it appears to the City that the apparent low Bidder is not negotiating in good faith or fails to share cost and pricing information upon request. Failure to rebid any portion of the project, or to obtain Subcontractor pricing information upon request, shall be considered a lack of good faith.
- F. Limitation. Negotiations may be undertaken only with the lowest Responsive, Responsible Bidder pursuant to ORS 279C.340.
- G. Public Records. ORS 279C.340 shall not be construed as creating any additional public records where that result is not otherwise contemplated by the Public Records law, ORS Chapter 192. Records of a Bidder used in Contract negotiations may not become public records unless they are also submitted to the City.

**5.34.645 Rejection of Offers.**

(Amended by Ordinance Nos. 185065, 185898, 187974 and 189878, effective March 4, 2020.)

**A. Rejection of an Offer.**

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1. The City may reject any Offer upon finding that to accept the Offer may impair the integrity of the Solicitation process or that rejecting the Offer is in the public interest. An example of rejection in the public interest is the City's determination that any of the unit Bid prices are significantly unbalanced to the City's potential detriment.
2. The City shall reject an Offer upon the City's finding that the Offer:
  - a. Is contingent upon the City's acceptance of terms and conditions (including Specifications) that differ from the Solicitation Document;
  - b. Takes exception to terms and conditions (including Specifications);
  - c. Attempts to prevent public disclosure of matters in contravention of the terms and conditions of Solicitation Document or in contravention of applicable law;
  - d. Offers Work that fails to meet the Specifications of the Solicitation Document;
  - e. Is late;
  - f. Is not in substantial compliance with the Solicitation Documents;
  - g. Is not in substantial compliance with all prescribed public Solicitation procedures.
  - h. Omits, or is unclear as to, the price; or the price cannot be determined in the Solicitation Documents;
  - i. Requires a delivery date different from that required by the Solicitation Document;
  - j. The Offeror failed to substantially comply with any Subcontractor Equity Program Specifications;
3. The City shall reject an Offer upon the City's finding that the Offeror:
  - a. Has not been Prequalified under ORS 279C.430 and the City required mandatory Prequalification;
  - b. Has been Disqualified or suspended;



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- c. Has been declared ineligible under ORS 279C.860 by the Commissioner of Bureau of Labor and Industries and the Contract is for a Public Work;
  - d. Is listed as not qualified by the Construction Contractors Board or the Landscape Contractors Board, when required;
  - e. Has not met the requirements of ORS 279A.105 if required by the Solicitation Document;
  - f. Has not submitted properly executed Bid or Proposal Security as required by the Solicitation Document;
  - g. Has failed to provide the certification required under Subsection 5.34.645 C.;
  - h. Is not Responsible.
- B. Form of Business.** For purposes of this rule, the City may investigate any Person submitting an Offer. The investigation may include that Person's officers, Directors, owners, affiliates, or any other Person acquiring ownership of the Person to determine application of this rule or to apply the Disqualification provisions of ORS 279C.440 to 279C.450 and Section 5.34.550.
- C. Certification of Non-Discrimination.** The Offeror shall certify and deliver to the City Written certification, as part of the Offer that the Offeror has not discriminated and will not discriminate against a COBID Certified Firm in obtaining any required subcontracts. Failure to do so shall be grounds for rejection.
- D. Rejection of all Offers.** The City may reject all Offers for good cause upon the City's Written finding it is in the public interest to do so. The City shall notify all Offerors of the rejection of all Offers, along with the good cause justification and finding.
- E. Criteria for Rejection of All Offers.** The City may reject all Offers upon a Written finding that:
  - 1. The content of, an error in, or the omission from the Solicitation Document, or the Solicitation process unnecessarily restricted competition for the Contract;
  - 2. The price, quality or performance presented by the Offerors is too costly or of insufficient quality to justify acceptance of the Offer;

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3. Misconduct, error, or ambiguous or misleading provisions in the Solicitation Document threaten the fairness and integrity, or the appearance of fairness and integrity of the Competitive process;
4. Causes other than legitimate market forces threaten the integrity of the Competitive Procurement process. These causes include, but are not limited to, those that tend to limit competition such as restrictions on competition, collusion, corruption, unlawful anti-Competitive conduct and inadvertent or intentional errors in the Solicitation Document;
5. The City cancels the Solicitation in accordance with Section 5.34.660; or
6. Any other circumstance indicating that Awarding the Contract would not be in the public interest.

**5.34.650 Notice of Intent to Award.**

(Amended by Ordinance Nos. 181547, 183445, 185898, effective March 4, 2020.)

- A. Notice: The City shall issue a Notice of Intent to Award a public improvement Contract to all Offerors.
  1. If the Solicitation was posted by Electronic means, the City may post the Intent to Award Electronically in the same manner as the Solicitation.
  2. If the Solicitation was not posted by Electronic means, and unless otherwise provided in the Solicitation Document, the City shall post notice of the City's intent to Award Contracts on the City's website or by Written notice posted at the office of Procurement Services.
  3. The Notice shall be posted at least seven (7) Days before the Award of a Contract, unless the Chief Procurement Officer determines that a compelling governmental interest, such as loss of funding, safety, public inconvenience or loss of taxpayer or ratepayer funds requires prompt execution of the Public Improvement Contract. If so, the Chief Procurement Officer shall specify in the Notice of the Intent the time period when the Contract will be Awarded and shall cause the Solicitation file to be documented with the specific reasons for the shorter notice period.
  4. As provided in ORS 279C.375(2), the Notice requirements of this rule do not apply to contracts excepted or exempted from competitive bidding under ORS 279C.335(1)(c) or (d).
- B. The City's Award shall not be final until the later of the following three dates:
  1. Seven (7) Days after the date of notice of intent to Award, unless the Solicitation Document provided a different period for protest of Contract

Award or the Chief Procurement Officer determined that a shorter period of time was necessary pursuant to Subsection 5.34.650 A.2. For purposes of this paragraph, the Day on which the Notice is posted from which the seven Days or other time period shall begin to run shall not be included, but the last Day of the period shall be included;

2. The City provides a Written response to all timely-filed protests that denies the protest and affirms the Award; or
3. Upon the conclusion of any administrative appeal pursuant to Section 5.34.740 if the Chief Procurement Officer decides to permit an appeal.

**5.34.660 Cancellation, Delay or Suspension of Solicitation.**

(Amended by Ordinance No. 185898, effective February 20, 2013.)

- A. Cancellation in the Public Interest. The City may cancel a Solicitation for good cause if the City finds that the cancellation is in the public interest. The reasons for cancellation shall be made part of the Solicitation file.
- B. Delay or Suspension. Any Solicitation may be delayed or suspended in whole, or in part, when the delay or suspension is in the best interest of the City as determined by the City.
- C. Costs. The City is not liable to any Offeror for costs, expenses or losses caused by the cancellation, delay or suspension.
- D. Notice. If the City cancels, delays or suspends a Solicitation prior to Opening, the City shall provide notice of cancellation in accordance with Section 5.34.310. Such notice of cancellation shall:
  1. Identify the Solicitation;
  2. Briefly explain the reason for cancellation; and
  3. If appropriate, explain that an opportunity will be given to compete on any re-solicitation.

**5.34.670 Disposition of Offers if Solicitation Canceled.**

- A. Prior to Offer Opening. If the City cancels a Solicitation prior to Offer Opening, the City will return all Offers it received to Offerors unopened, provided the Offeror submitted its Offer in a hard copy format with a clearly visible return address. If there is no return address on the envelope, the City will open the Offer to determine the source and then return it to the Offeror.

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- B.** After Offer Opening. If the City rejects all Offers, the City will retain all such Offers as part of the City's Solicitation file. If a Request for Proposals is cancelled after Proposals are received, the City may return a Proposal to the Proposer that submitted it. The City shall keep a list of returned Proposals in the file for the Solicitation.

**5.34.675 Documentation of Award.**

(Amended by Ordinance No. 185898, effective February 20, 2013.)

- A.** Basis of Award. After Award, the City shall make a record showing the basis for determining the successful Offeror part of the City's Solicitation file.
- B.** Contents of Award Record. The City's record shall include
  - 1.** Bids.
    - a.** Completed Bid tabulation sheet; and
    - b.** Written justification for any rejection of lower Bids or Bids rejected as a result of a failure to meet mandatory Bid requirements.
  - 2.** Proposals.
    - a.** The completed evaluation of the Proposals;
    - b.** Written justification for any rejection of higher scoring Proposals or for failing to meet mandatory requirements of the Request for Proposal; and
    - c.** If the City permitted negotiations in accordance with Section 5.34.850 the City's completed evaluation of the initial Proposals and the City's completed evaluation of final Proposals.

**5.34.680 Time for City Acceptance; Extension.**

(Amended by Ordinance Nos. 185898 and 189878, effective March 4, 2020.)

- A.** Time for Offer Acceptance. An Offer submitted as a Firm Offer is irrevocable, valid and binding on the Offeror for not less than 60 Days from Closing unless otherwise specified in the Solicitation Document. After 60 Days, or such other period of time specified in the Solicitation Document, the Offer may lapse unless extended.
- B.** Extension of Acceptance Time. The City may request, orally or in Writing, that Offerors extend, in Writing, the time during which the City may consider and accept their Offer(s). If an Offeror agrees to such extension, the Offer shall continue as a Firm Offer, irrevocable, valid and binding on the Offeror for the agree-upon

extension period. The extension may occur after the 60-Day time period referenced in Subsection 5.34.680 A.

**5.34.685 Availability of Award Decisions.**

- A.** Contract Documents. To the extent required, the City shall deliver to the successful Offeror, a Signed purchase order, Price Agreement, or other Contract document(s), as applicable.
- B.** Notification to Unsuccessful Offerors. A Person may obtain tabulations of Awarded Bids or evaluation summaries of Proposals for a nominal charge, in Person or by submitting to the City a Written request accompanied by payment. Such request shall provide the Solicitation Document number and enclose a self-addressed, stamped envelope.
- C.** Bid Tabulations and Award Summaries. Upon request of any Person the City shall provide tabulations of Awarded Bids or evaluation summaries of Proposals for a nominal charge that may be payable in advance. Requests must contain the Solicitation Document number and, if requested, be accompanied by a self-addressed, stamped envelope. The City may also provide tabulations of Bids and Proposals Awarded on designated Web sites or on the City's web site.
- D.** Copies from Solicitation Files. Any Person may obtain copies of material from Solicitation files upon payment of a reasonable copying charge.

**5.34.690 Performance and Payment Security; Waiver.**

(Amended by Ordinance Nos. 181547, 183445, 185898 and 187974, effective September 7, 2016.)

- A. Public Improvement Contracts.** Unless the required performance bond is waived under ORS 279C.380(1)(a), excused in cases of Emergency under ORS 279C.380(4), or unless the City Council, acting as the Local Contract Review Board, exempts a Contract or classes of Contracts from the required performance bond and payment bond pursuant to ORS 279C.390, the Contractor shall execute and deliver to the City a performance bond and a payment bond each in a sum equal to the Contract Price for all Public Improvement Contracts. Price Agreements with specific Work/Task Orders forming Contracts at a value under \$150,000 are exempted from performance and/or payment bonds. This requirement applies only to Public Improvement Contracts with a value, estimated by the City, of more than \$150,000. Notwithstanding any exemption, the Chief Procurement Officer may require a performance bond, or payment bond, or both, in the Chief Procurement Officer's sole discretion (see also, Section 5.34.915 regarding the separate public works bond).

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- B. Other Construction Contracts.** The City may require performance security for other construction Contracts that are not Public Improvement Contracts. Such requirements shall be expressly set forth in the Solicitation Document.
- C. Requirement for Surety Bond.** The City shall accept only a performance bond and payment bond furnished by a surety company authorized to do business in Oregon and who is duly listed in the United States Treasury List as published in the Federal Register or is otherwise approved by the City Attorney each in the amount of 100 percent of the Contract price unless otherwise specified in the Solicitation Document or such substitute security is approved by the City Attorney's office. The surety bond shall have the company's seal affixed to it, be signed by the surety's Attorney in Fact, and have attached the Power of Attorney for the Attorney in Fact. The City Attorney may waive the requirement of the corporate seal.
- D. Time for Submission.** The apparent successful Offeror must furnish the required performance and payment security within 10 Days after notification by the City. If the Offeror fails to furnish the performance security as requested, the City may reject the Offer and Award the Contract to the Responsible Bidder with the next lowest Responsive Bid or the Responsible Proposer with the next highest-scoring Responsive Proposal, and, at the City's discretion, the Offeror shall forfeit its Bid or Proposal Security.

**5.34.695 Notification to State of Nonresident Contractor.**

If the Contract Price exceeds \$10,000 and the Contractor is a Nonresident Contractor, the Contractor shall promptly report to the Oregon Department of Revenue on forms provided by the Department of Revenue, the Contract Price, terms of payment, Contract duration and such other information as the Department of Revenue may require before final payment can be made on the Contract. A copy of the report shall be forwarded to the City. The City shall satisfy itself that the above requirements have been complied with before it issues final payment on the Contract.

**5.34.700 Protests and Judicial Review of Individual and Class Exemptions.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A.** An Affected Person may protest the City's approval of an individual or Class Exemption.
- B.** Method of Protest
  - 1.** Time: A Written protest of the City's approval shall be provided to the Chief Procurement Officer not later than seven (7) Days after the approval of the Individual or Class Exemption unless a different time period is provided in the Notice. The Chief Procurement Officer shall not consider a protest submitted after the timeline established for submitting such protest under this rule or such different time period.

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2. Contents. The Written protest must include:
  - a. Sufficient information to identify the Request that is the subject of the protest;
  - b. A detailed statement of all the legal and factual grounds for the protest;
  - c. Evidence or supporting documentation that supports the grounds on which the protest is based;
  - d. A description of the resulting harm to the Affected Person; and
  - e. The relief requested.
  
- C. Required City Response. The City shall take the following actions, as appropriate:
  1. The City shall inform the Affected Person in Writing if the protest was not timely filed;
  2. The City shall inform the Affected Person if it failed to meet the requirements of Subsection 5.34.700 B.2. and the reasons for that failure;
  3. If the protest was timely filed and provides the information required by Subsection 5.34.700 B.2., the City shall issue a decision in Writing and provide that decision to the Affected Person within seven (7) business days unless a Written determination is made by the City that circumstances exist that require a shorter time limit.
  4. If the City denies the protest, it shall inform the Affected Person if the decision is final or whether the Chief Procurement Officer has decided to refer the protest to the Purchasing Board of Appeals or City Council.
  
- D. Optional City Response: In addition to the requirements of Subsection 5.34.700 C., the Chief Procurement Officer may do any of the following:
  1. Agree with the protest and take any corrective action necessary;
  2. Issue a Written response to the protest and provide that decision to the Affected Person;
  3. Refer the protest and any response to the Board of Appeals for decision;
  4. Refer the protest and any response to the City Council for decision; or

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5. Take any other action that is in the best interest of the City while giving full consideration to the merits of the protest.

**E. Judicial Review.**

1. An Affected Person may not seek judicial review of the City Council's approval of an Individual or Class Exemption unless it Files an appeal in accordance with this rule and has exhausted all avenues of appeal provided by the Chief Procurement Officer.
2. Judicial review is not available if the Request is denied by the City Council, Contract Board of Appeals or is withdrawn by the Chief Procurement Officer.

**5.34.710 Protests and Judicial Review of Multi-Tiered Solicitations.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A.** An Affected Person may protest their exclusion from multi-tiered Solicitations. Protest of Contract terms and conditions, however, shall be made pursuant to Section 5.34.720.

**B.** Offerors may protest in one of two ways:

1. If no other protest remedies are provided in the Solicitation Document, an Affected Person can file a Written protest to the Award within seven (7) Days after the issuance of the Notice of Intent to Award if the protest meets the requirements of Subsection 5.34.710 C., pursuant to Section 5.34.730 [Protests of Contractor Selection, Contract Award]; or
2. If expressly required or permitted by the Solicitation Document, an Affected Person can file a Written protest after being excluded from the Competitive Range or after being excluded from any subsequent stages of Procurement.

**C.** Basis of Protest. An Affected Person may protest its exclusion from the Competitive Range or from subsequent stages of a Procurement only if:

1. The Affected Person is a Responsible and submitted a Responsive Offer;
2. The City made a mistake that, if corrected, would have made the Affected Person eligible to participate in the next stage of the Solicitation process.

**D.** Method of Protest.

1. Time. If the Solicitation Document permits or requires protests prior to the City's issuance of a Notice of Intent to Award, an Affected Person must



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submit a Written protest specifying its basis within seven (7) Days after the Affected Person was excluded from participating further in the Procurement, unless the Solicitation Document specifies a shorter period of time.

2. Contents: The protest must include the following information:
  - a. Sufficient information to identify the errors that led to the Affected Person's exclusion from the Competitive Range or from subsequent stages of a Procurement;
  - b. A detailed statement of all the legal and factual grounds for the protest;
  - c. Evidence or supporting documentation that supports the grounds on which the protest is based;
  - d. A description of the resulting harm to the Affected Person; and
  - e. The relief requested.

**E.** Required City Response. The City shall take the following actions, as appropriate:

1. The City shall inform the Affected Person in Writing if the protest was not timely filed;
2. The City shall inform the Affected Person if it failed to meet the requirements of Subsection 5.34.710 D.2., and the reasons for that failure;
3. If the protest was timely filed and provides the information required by Subsection 5.34.710 D.2., the Chief Procurement Officer shall issue a decision in Writing and provide that decision to the Affected Person within seven (7) business days unless a Written determination is made by the City that circumstances exist that require a shorter time limit.
4. If the City denies the protest, it shall inform the Affected Person if the decision is final or whether the Chief Procurement Officer has decided to refer the protest to the Purchasing Board of Appeals or City Council.

**F.** Optional City Response: In addition to the requirements of Subsection 5.34.710 E., the City may take any or all of the following actions:

1. Agree with the Protest, in whole or in part, and permit the Affected Person to participate in the next stage of the Solicitation process;

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2. Issue a Written response to the protest and provide that determination to the Affected Person.
  3. Refer the protest to the Board of Appeals.
  4. Refer the protest to the City Council for consideration along with the Chief Procurement Officer's Award; or
  5. Take any other action that is in the best interest of the City while giving full consideration to the merits of the protest.
- G.** Judicial Review. An Affected Person may not seek judicial review of its elimination from a preliminary stage of a multi-tiered process unless it files a protest in accordance with this rule and has exhausted all avenues of appeal provided by the Chief Procurement Officer.

**5.34.720 Protests and Judicial Review of Solicitation Documents and the Solicitation Processes other than Multi-Tier Processes.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A.** An Affected Person may protest the Solicitation process or the Solicitation Document for Offers solicited pursuant to Competitive sealed Bidding or through an alternative contracting process.
1. The exclusive method for protesting individual and class exemptions, is through Section 5.34.700 and not this rule. The exclusive process of protesting a multi-tiered Solicitation process is pursuant to Section 5.34.710 and not this rule.
  2. Prior to submitting a protest regarding Solicitation Documents or the Solicitation process, an Affected Person may seek clarification of any provision of the Solicitation Document. The City's clarification to an Offeror, whether orally or in Writing, does not change the Solicitation Document and is not binding on the City unless the City amends the Solicitation Document by Addendum.
- B.** Method of Protest.
1. Time: A Written protest regarding a Solicitation Document or the procurement process shall be provided to the Chief Procurement Officer within seven (7) Days after a Solicitation Document is advertised unless the Solicitation Document requires a shorter period of time. The Chief Procurement Officer shall not consider a protest submitted after the timeline established for submitting such protest under this rule.
  2. Contents: The protest must include the following information:

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- a. Sufficient information to identify the portion or portions of the Solicitation Document that are being protested or the solicitation process or processes that are the subject of the protest;
  - b. A detailed statement of all the legal and factual grounds for the protest;
  - c. Evidence or supporting documentation that supports the grounds on which the protest is based;
  - d. A description of the resulting harm to the Affected Person; and
  - e. The relief requested.
- C. Required City Response.**
1. The City shall inform the Affected Person in Writing if the protest was not timely filed;
  2. The City shall inform the Affected Person if it failed to meet the requirements of Subsection 5.34.720 B.2. and the reasons for that failure;
  3. If the protest was timely filed and provides the information required by Subsection 5.34.720 B.2., the Chief Procurement Officer shall issue a decision in Writing and provide that decision to the Affected Person no less than three (3) business Days before Offers are due, unless a Written determination is made by the Chief Procurement Officer that circumstances exist that require a shorter time limit.
  4. The Chief Procurement Officer's response shall inform the Affected Person if the decision is final or whether the Chief Procurement Officer has decided to refer the protest to the Purchasing Board of Appeals or City Council. When the decision is final, the Affected Person must seek judicial review before the Opening of Bids, Proposals or Offers.
  5. If the Chief Procurement Officer receives protest from an Affected Person in accordance with this rule, the Chief Procurement Officer may extend Closing if the City determines an extension is necessary to consider the protest and to issue an Addendum to the Solicitation Document.
- D. Optional City Response:** In addition to the requirements of Subsection 5.34.720 C., the Chief Procurement Officer may take any or all of the following:
1. Agree with the protest and make any necessary corrections to the Solicitation Document or Procurement process;

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2. Issue a Written response to the protest and provide that decision to the Affected Person.
  3. Refer the protest and any response to the Board of Appeals;
  4. Refer the protest and any response to the City Council for decision; or
  5. Any other action that is in the best interest of the City while giving full consideration to the merits of the protest.
- E. Judicial Review. An Affected Person may not seek judicial review of the City's final decision regarding its protest of the contents of a Solicitation Document or the Solicitation process unless it fully has complied with the Protest requirements of this rule and has exhausted all avenues of appeal provided by the Chief Procurement Officer.

**5.34.725 Administrative Reconsideration as a Result of Rejection for Failure to Meet DBE Requirements.**

(Amended by Ordinance No. 183445, effective January 6, 2010.)

- A. This Code provision applies only to City Solicitation Documents concerning Federal-Aid Certified projects that contain Supplemental Contract provisions implementing the requirements of the United States Department of Transportation and Part 26, Title 49 of the Code of Federal Regulations concerning Disadvantaged Business Enterprises (DBEs).
- B. An Affected Person whose Offer is rejected as nonresponsive as a result of noncompliance with the DBE requirements of the Solicitation Document may seek administrative reconsideration of that decision from the Oregon Department of Transportation (ODOT) in the time and manner set forth in the Solicitation Document.
- C. An Affected Person whose Offer has been rejected as nonresponsive to a Solicitation Document described in Paragraph A for reasons other than noncompliance with the DBE requirements of the Solicitation Document shall submit a protest to the Chief Procurement Officer in accordance with the applicable provisions of City Code and not to ODOT. Similarly, protests of any matters other than bid rejection for failure to meet DBE requirements shall be considered by the Chief Procurement Officer in accordance with the applicable provision of City Code and not by ODOT.
- D. An Affected Person whose Offer has been rejected as nonresponsive on multiple grounds, including a failure to meet the DBE requirements of the Solicitation Document, shall seek administrative reconsideration from ODOT regarding the rejection regarding DBE requirements and shall file a protest with the Chief

Procurement Officer regarding any other grounds on which rejection was made in accordance with the applicable provision of City Code.

- E.** An Affected person may not seek judicial review unless it fully has complied with the requirements of this rule and exhausted all avenues of administrative reconsideration, protest, or both.

**5.34.730 Protest of Contractor Selection, Contract Award.**

(Amended by Ordinance Nos. 183445, 184403 and 185898, effective February 20, 2013.)

- A.** An Affected Person may protest the Award or the intent to Award a Contract resulting from a Competitive Sealed Bid or Competitive Sealed Proposal, whichever occurs first, if:

- 1.** The Affected Person would be eligible to be Awarded the Public Contract in the event that the protest were successful; and
- 2.** The reason for the protest is that:
  - a.** All other Offers are nonresponsive;
  - b.** The City failed to conduct the evaluation of Proposals in accordance with the criteria or processes described in the Solicitation Document;
  - c.** The City abused its discretion in rejecting the Affected Person's Bid or Proposal as nonresponsive; or
  - d.** The City's evaluation of Offers or the City's subsequent determination of Award is otherwise in violation of these rules, ORS Chapter 279C or ORS Chapter 279A.

- B.** Method of Protest.

- 1.** Time: A Written protest of the Notice of Intent to Award or Award itself shall be provided to the Chief Procurement Officer within seven (7) Days after the City posts a notice that it will make a Contract Award, or the Contract is Awarded, whichever occurs first, unless the Solicitation Document specified a shorter period of time. The Chief Procurement Officer shall not consider a protest submitted after the timeline established for submitting such protest under this rule or such different time period as may be provided in the Solicitation Document.
- 2.** Contents: The protest must include the following information:

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- a. Sufficient information to identify the Contract or Notice of Intent to Award that is the subject of the protest;
  - b. A detailed statement of all the legal and factual grounds for the protest.
  - c. Evidence or supporting documentation that supports the grounds on which the protest is based;
  - d. A description of the resulting harm to the Affected Person submitting the protest; and
  - e. The relief requested.
- C. Required City Response. The City shall take the following actions, as appropriate:
  1. The City shall inform the Affected Person in Writing if the protest was not timely filed;
  2. The City shall inform the Affected Person if it failed to meet the requirements of Subsection 5.34.730 B.2, and the reasons for that failure;
  3. If the protest was timely filed and provides the information required by Subsection 5.34.730 B.2., the Chief Procurement Officer shall issue a decision in Writing and provide that decision to the Affected Person within a reasonable time of the receipt of the protest.
  4. If the City denies the protest, it shall inform the Affected Person if the decision is final or whether the Chief Procurement Officer has decided to refer the protest to the Purchasing Board of Appeals or City Council.
- D. Optional City Response: In addition to the requirements of Subsection 5.34.730 C., the City may take any or all of the following:
  1. Agree with the Protest and issue a revised Notice of Intent to Award or take any other corrective action that may be necessary to ensure that the Contract is Awarded to the appropriate Offeror;
  2. Issue a Written response to the protest and provide that decision to the Affected Person.
  3. Refer the protest and any response to the Board of Appeals for decision;
  4. Refer the protest and any response to the City Council for decision; or

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5. Take any other action that is in the best interest of the City while giving full consideration to the merits of the protest.
- E.** Judicial Review. An Affected Person may not seek judicial review unless it fully has complied with the protest requirements of this rule and has exhausted all avenues of appeal provided by the Chief Procurement Officer.

**5.34.740 Protests of Other Violations.**

(Amended by Ordinance Nos. 183445, 184403 and 185898, effective February 20, 2013.)  
Protests of any violation of ORS Chapter 279C, for which no administrative remedy is otherwise provided by this Code, are subject to this rule:

- A.** An Affected Person can file a protest under this section only if a Public Contract is about to be Awarded or has been Awarded and:
1. An alleged violation of ORS 279C has occurred in the Solicitation process and violation has resulted or will result in the unlawful Award of a Contract or the unlawful failure to Award the Contract;
  2. The alleged violation deprived the Affected Person of the Award of the Contract or the opportunity to compete for the Award of the Contract;
  3. The Affected Person would have been a Responsible Bidder, Proposer or Offeror qualified to receive the Award of the Contract;
  4. The Affected Person gave Written notice to the City describing the alleged violation no later than seven (7) Days after the date on which the alleged violation occurred and in no event more than seven (7) Days after the date of the execution of the Contract; and
  5. If the alleged violation is of ORS 279C, then it is one for which no judicial review is provided by another section of Chapter 5.34.
- B.** Method of Protest.
1. Time: The Chief Procurement Officer shall not consider a protest submitted after the timeline established for submitting such protest under this rule and shall not consider a protest under this section if a right to protest is elsewhere provided by this Code.
  2. Contents: The protest must include the following information:
    - a. Sufficient information to identify the Solicitation that is the subject of the protest;

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- b. A detailed statement of the alleged violation and all the legal and factual grounds for the protest.
  - c. Evidence or supporting documentation that supports the grounds on which the protest is based;
  - d. A description of the resulting harm to the Affected Person; and
  - e. The relief requested
- C. Required City Response. The City shall take the following actions, as appropriate:
  - 1. The City shall inform the Affected Person in Writing if the protest was not timely filed;
  - 2. The City shall inform the Affected Person if it failed to meet the requirements of Subsection 5.34.740 B.2. and the reasons for that failure;
  - 3. If the protest was timely filed and provides the information required by Subsection 5.34.740 B.2., the City shall issue a decision in Writing and provide that decision to the Affected Person within a reasonable time of the receipt of the protest.
  - 4. If the City denies the protest, it shall inform the Affected Person if the decision is final or whether the Chief Procurement Officer has decided to refer the protest to the Purchasing Board of Appeals or City Council.
- D. Optional City Response: In addition to the requirements of Subsection 5.34.740 C., the City may take any or all of the following:
  - 1. Agree with the Protest and take any corrective action necessary;
  - 2. Issue a Written response to the protest and provide that decision to the Affected Person;
  - 3. Refer the protest and any response to the Board of Appeals for decision.
  - 4. Refer the protest and any response to the City Council for decision; or
  - 5. Take any other action that is in the best interest of the City while giving full consideration to the merits of the protest
- E. Judicial Review. An Affected Person may not seek judicial review of any violations covered by this rule unless it fully has complied with the protest requirements of this rule and has exhausted all avenues of appeal provided by the Chief Procurement Officer.



**5.34.750 Review of Prequalification and Disqualification Decisions.**

(Repealed by Ordinance No. 189878, effective March 4, 2020.)

**5.34.760 Procurement Board of Appeals.**

(Amended by Ordinance Nos. 183445, 185898 and 189878, effective March 4, 2020.)

- A.** Purpose. The purpose of this rule is to provide for the prompt, effective and efficient resolution of appeals and protests of Affected Persons in regard to City decisions when such matters are referred to it by the Chief Procurement Officer or when authorized or required by this Chapter.
- B.** Board Created. Pursuant to Portland City Charter Section 2-103, City Council hereby creates the Procurement Board of Appeals for the purposes described above.
- C.** Jurisdiction of Board. The Procurement Board of Appeals shall hear and resolve protests and appeals arising from City decisions arising under this Chapter only when such matters are referred to it by the Chief Procurement Officer.
- D.** Composition of Board.
  - 1.** The Procurement Board of Appeals shall consist of three members. A quorum shall consist of three members.
  - 2.** The members of the Board shall be:
    - a.** A representative from the public procurement sector;
    - b.** The City Engineer or designee;
    - c.** A member of the general public with affiliation to the public procurement industry.
  - 3.** The public members shall be appointed by the Mayor, subject to confirmation by City Council and shall serve for a period of up to two years, which may be extended for additional 2-year terms up to a total maximum of 10 years by the Chief Procurement Officer.
  - 4.** A member of the board shall serve as chairperson.
- E.** Compensation. All members of the Board shall serve without pay, except that they may receive their regular salaries during time spent on Board matters.
- F.** Vacancies. A vacancy on the Board shall be filled as soon as possible in accordance with the procedures described above.

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- G.** Procedure and Rules. The Chief Procurement Officer shall establish administrative rules of procedure for the Board and the Board shall follow that procedure for all matters heard by the Board.
- H.** Staff. Procurement Services shall provide staff and appropriate assistance for the Board.

**5.34.770 Powers of the Board.**

(Amended by Ordinance No. 183445, effective January 6, 2010.)

- A.** The Board shall be responsible for reviewing the decisions of the City arising under this Chapter. In regard to appeals of decisions regarding Prequalification or disqualification of Bidders or Proposers, the Board shall comply with Oregon state law and these rules.
- B.** The Board shall consider only those matters that were raised by the Affected Person in its protest to the Chief Procurement Officer.
- C.** The Board shall not consider the appeal of any Affected Person who did not file a timely appeal.
- D.** The Board shall hear appeals based on administrative rules of procedure established by the Chief Procurement Officer. The administrative rules shall provide for notice and prompt hearing of appeals and protests, record-making, right to counsel and other procedural matters.
- E.** Following completion of a hearing, the Board shall prepare a Written decision that shall be mailed to all parties to the hearing by certified mail, return receipt requested.

**5.34.780 Appeal to Board.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.)

- A.** Time. Any request for hearing by the Board shall be received by the Chief Procurement Officer no more than seven (7) Days from the date of the Chief Procurement Officer's decision unless a different timeline is provided in the Solicitation Document. The request shall be delivered to Procurement Services, Attn: Chief Procurement Officer and marked "Request for Hearing by the Purchasing Board of Appeals."
- B.** Contents. The request shall set forth the specific reasons for requesting a hearing by City Council. Only those matters that were raised with the Chief Procurement Officer and the Procurement Board of Appeals shall be stated as grounds for appeal.
- C.** Time of Hearing. The Chief Procurement Officer shall schedule the time and place for the Board to meet giving consideration to the schedule of the Board.

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- D.** Further Appeal. An Affected Person who is not satisfied with the decision of the Board may file a further Written appeal, but only if permitted by the Chief Procurement Officer. If not permitted by the Chief Procurement Officer, the Affected Person has exhausted its administrative appeals. Any request for further appeal shall be received by the Chief Procurement Officer no later than three (3) Days from the date the Affected Person receives the Board’s Written decision. The request shall be delivered to Procurement Services, Attn: Chief Procurement Officer and marked “Request for Hearing by City Council.”
- E.** If so referred, City Council shall decide at its next available regularly scheduled hearing whether to hear the appeal. If City Council decides not to hear the appeal, the decision of the Board is final. If City Council decides to hear the appeal it shall be scheduled by the Council Clerk for hearing by City Council. The City Council’s decision on the appeal shall be final upon issuance of City Council’s order deciding the appeal. The City Council may also adopt the decision of the Board without further hearing by City Council. In this situation, the appeal to City Council shall be final upon issuance of City Council’s order adopting the decision of the Board. The rules of City Council provided at PCC Chapter 3.02 shall be the rules for any hearing on appeal.
- F.** If so permitted, the decision of City Council shall conclude an Affected Person’s administrative remedies and further redress sought by an Affected Person shall be pursuant to state law. Otherwise, the Board’s decision shall be final for any remedies that might be available to Affected Person under state law.
- G.** Costs: The Chief Procurement Officer may impose a reasonable fee on the Affected Person requesting a hearing before the Board or Council to defray costs of the appeal. The fee shall be paid at the time the hearing is requested or the protest shall be considered waived. In the event that the Person contesting the hearing prevails in its protest, the fee shall be refunded.

**5.34.800 Purpose.**

(Amended by Ordinance Nos. 183445 and 185898, effective February 20, 2013.) Section 5.34.800 et seq. is intended to provide guidance to Bureaus and Divisions of the City of Portland regarding the use of Alternative Contracting Methods for Public Improvement Contracts, as may be directed by the City’s Chief Procurement Officer. Those methods include, but are not limited to, Design-Build, Energy Savings Performance Contract (ESPC) and Construction Manager/General Contractor (CM/GC) forms of contracting. As to ESPC contracting, Section 5.34.880 implements the requirements of ORS 279C.335 pertaining to the adoption of model rules appropriate for use by the City govern the procedures for entering into ESPCs.

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**5.34.810 Definitions for Alternative Contracting Methods.**

(Amended by Ordinance Nos. 185898 and 187373, effective October 14, 2015.) The following definitions shall apply to Sections 5.34.800 through 5.34.890, unless the context requires otherwise:

- A. Alternative Contracting Methods.** Innovative techniques for procuring or performing Public Improvement Contracts, utilizing processes other than the traditional method involved in the design-Bid-build with Award of a Public Improvement Contract based solely on price (in which a final design is issued with formal Bid documents, construction Work is obtained by sealed Bid Awarded to the lowest Responsive, Responsible Bidder, and the project is built in accordance with those documents). In industry practice, such methods commonly include variations of Design-Build contracting, CM/GC forms of contracting and ESPCs, which are specifically addressed in Section 5.34.880. These methods also include other developing techniques including, but not limited to, general "performance contracting" and "cost plus time" contracting, for which procedural requirements are identified under Sections 5.34.800 through 5.34.890.
- B. Construction Manager/General Contractor (or "CM/GC").** A CM/GC Contractor means a person who provides Construction Manager/General Contractor services to the City under a Public Improvement Contract.
- C. Construction Manager/General Contractor Method (or "CM/GC Method")** means the Alternative Contracting Method which involves the City's section of a CM/GC to perform CM/GC Services for a project or projects.
- D. Construction Manager/General Contractor Services (or "CM/GC Services")** means construction-related services the City procures by means of an Alternative Contracting Method under ORS 279C.335 and the at:

  - 1. Include a Construction Manager/General Contractor's:**

    - a.** Functioning as a member of a project team that includes the City, the architect or engineer that designs the Public Improvement under a separate contract with the City and other contractors and consultants; and
    - b.** Reviewing and analyzing a design for a Public Improvement in order to:

      - (1)** Suggest changes in the design that minimize potential errors, delays, unexpected costs and other problems during construction;
      - (2)** Recommend means by which the City may achieve the functions of the Public Improvement or a component of the

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Public Improvement safely, reliably, efficiently and at the lowest overall cost;

- (3) Improve the value and quality of the Public Improvement; and
- (4) Reduce the time necessary to complete the Public Improvement.

2. May include, depending on the specific terms of the Public Improvement Contract and on whether the City decides to proceed with construction, a Construction Manager/General Contractor's:

- a. Devising a schedule for constructing the Public improvement;
- b. Estimating construction, materials, labor and other costs for the Public Improvement;
- c. Establishing a fixed price, a Guaranteed Maximum Price or other maximum price;
- d. Constructing portions of the Public improvement and subcontracting portions to other contractors;
- e. Coordinating and overseeing the construction process; or
- f. Performing other services related to constructing a Public Improvement in accordance with the terms of the Public Improvement Contract.

**E. Design-Build.** A form of Procurement that results in a Public Improvement Contract in which the construction Contractor also provides or obtains specified design services, participates on the project team with the City, and manages both design and construction. In this form of Contract, a single Contractor provides the City with all of the Professional, Technical and Expert Services and Work necessary to both design and construct the project.

**F. Early Work.** Early Work means construction services, construction materials and other Work authorized by the parties to be performed under the CM/GC Contract in advance of the establishment of the GMP, fixed price or other maximum, not-to-exceed price for the project. Permissible Early Work shall be limited to early procurement of materials and supplies, early release of Bid or Proposal packages for site development and related activities, and any other advance Work related to important components of the project for which performance prior to establishment of the GMP will materially and positively affect the development or completion of the project.

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- G. Guaranteed Maximum Price (or "GMP").** GMP means the total price at which the Construction Manager/General Contractor agrees to provide Construction Manager/General Contractor services to the City in accordance with the terms and conditions and scope of work for a specific Public Improvement Contract and within which are:
1. All costs the City agrees to reimburse and all fees the City agrees to pay for completing the Work; and
  2. Any contingent costs, fees, or other charges specifically identified in the Public Improvement Contract. For Alternative Contracting Methods other than the CM/GC method, "Guaranteed Maximum Price: ("GMP") means the total maximum price provided to the City by the Contractor, and accepted by the City, that includes all reimbursable costs of and fees for completion of the Contract Work and any particularly identified contingency amounts, as defined by the Public Improvement Contract.
- H. Project Development Plan.** A secondary phase of Personal Services and Work.
- I. Savings Pertaining to CM/GC (or "Savings").** CM/GC Savings means a positive difference between a fixed price, Guaranteed Maximum Price, or other maximum price set forth in the Contract and the actual cost of the Work, including costs for which the City reimburses a Construction Manager/General Contractor and fees or profits the Construction Manager/General Contractor earns. For other Alternative Contracting Methods, "Savings" means a positive difference between a Guaranteed Maximum Price or other maximum not-to-exceed price set forth in a Public Improvement Contract and the actual costs of the Contractor's performance of the Work payable by the City under the terms of the Contract, including costs for which the City reimburses the Contractor and fees, profits, or other payments the Contractor earns.

**5.34.820 Use of Alternative Contracting Methods.**

(Amended by Ordinance Nos. 183445, 185898 and 187373, effective October 14, 2015.)

- A. Competitive Bidding Exemptions.** ORS Chapter 279C requires a competitive bidding process for Public Improvement Contracts unless a statutory exception applies, a class of Contracts has been exempted from Competitive Bidding, or an individual Contract has been exempted from Competitive Bidding, in accordance with ORS 279C.335 and Section 5.34.830. Use of Alternative Contracting Methods may be directed by the City's Chief Procurement Officer as an exception to the prescribed Public Contracting practices in Oregon, and their use must be justified in accordance with City Code.
- B. Post-Project Evaluation.** ORS 279C.355 requires that the City prepare a formal post-project evaluation of Public Improvement projects in excess of \$100,000 when

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the City does not use Competitive Bidding. The purpose of this evaluation is to determine whether it was actually in the City's best interest to use an Alternative Contracting Method instead of Competitive Bidding. The evaluation must be delivered to City Council on behalf of the City's Chief Procurement Officer within 30 Days after the date the City "accepts" the Public Improvement project, which event is typically defined in the Contract. In the absence of a definition of "acceptance", the later of the date of final payment or the date of final completion of the Work will govern. ORS 279C.355 describes the timing and content of this evaluation, with three required elements:

1. Financial information, consisting of Cost Estimates, any Guaranteed Maximum Price, changes and actual costs;
2. A narrative description of successes and failures during design, engineering and construction; and
3. An objective assessment of the use of the Alternative Contracting Method as compared to the exemption Findings.

**5.34.830 Findings, Notice and Hearing.**

(Amended by Ordinance Nos. 181547, 185898 and 187373, effective October 14, 2015.)

- A. The City Council may by ordinance exempt a Contract from the requirements of Competitive Bidding if it makes the following findings:
1. It is unlikely that the exemption will encourage favoritism in the Awarding of Public Improvement Contracts or substantially diminish competition for Public Improvement Contracts as further described in Subsection 5.34.830 F.; and
  2. The exemption will likely result in substantial costs savings and other substantial benefits to the City in accordance with ORS 279C.335(2)(b). As set forth in ORS 279C.335(2)(b)A-N and Subsection 5.34.830 D. below, if a particular factor has no application whatsoever to the particular Public Improvement Contract or class of Public Improvement Contracts then it is not required to address the factor other than to state that the factor has no application; or
  3. If the Public Improvement relate to the operation, maintenance or construction of highways, bridges and other transportation facilities, that the exemption will result in substantial cost savings to the City or to the public.
  4. As an alternative to the findings regarding substantial cost savings, the City may make a finding that identifies the project as a pilot project for which the City intends to determine whether the use of the Alternate Contracting

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Method actually results in substantial cost savings to the City, or, if it is for a Public Improvement described in Subsection 5.34.830 A.3. above, to the public, provided the City has not previously used the proposed Alternate Contracting Method. Nevertheless, findings are still required in accordance with ORS 279C.335(2)(a).

- B.** The City council may consider the type, cost and amount of the Contract the number of Persons available to bid and other such factors as may be deemed appropriate in declaring the exemption.
- C.** Findings supporting a competitive bidding exemption must describe with specificity the Alternative Contracting Method to be used in lieu of competitive bidding, including, but not limited to, whether a one step (Request for Proposals) or two step (beginning with Requests for Qualifications) solicitation process will be utilized. The Findings may also describe anticipated characteristics or features of the resulting Public Improvement Contract. However, the purpose of an exemption from competitive bidding is limited to a determination of the Procurement method. Any unnecessary or incidental descriptions of the specific details of the anticipated Contract within the supporting Findings are not binding upon the City. The parameters of the Public Improvement Contract are those characteristics or specifics that are announced in the Solicitation Document. The representations in and the accuracy of the findings, including any general description of the resulting public improvement contract, are the bases for approving the findings and granting the exception. The findings may describe the anticipated features of the resulting public improvement contract, but the final parameters of the contract are those characteristics or specifics announced in the solicitation document.
- D.** The City Council shall require and approve additional findings in the following areas in order to declare the exemption:
  - 1.** How many persons are available to bid;
  - 2.** The construction budget and the projected operating costs for the completed Public Improvement;
  - 3.** Public benefits that may result from granting the exemption;
  - 4.** Whether value engineering techniques may decrease the cost of the Public Improvement;
  - 5.** The cost and availability of specialized expertise that is necessary for the Public Improvement;
  - 6.** Any likely increases in public safety;



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7. Whether granting the exemption may reduce risks to the City or the public that are related to the Public Improvement
8. Whether granting the exemption will affect the sources of funding for the Public Improvement;
9. Whether granting the exemption will better enable the City to control the impact that market conditions may have on the cost of and time necessary to complete the Public Improvement;
10. Whether granting the exemption will better enable the City to address the size and technical complexity of the Public Improvement;
11. Whether the Public Improvement involves new construction or renovates or remodels an existing structure;
12. Whether the Public Improvement will be occupied or unoccupied during construction;
13. Whether the Public Improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and
14. Whether the City has, or has retained under contract, and will use City personnel, consultants and legal counsel that have necessary expertise and substantial experience in Alternative Contracting Methods to assist in developing the Alternative Contracting Methods that the City will use to award the Public Improvement contract and to help negotiate, administer and enforce the terms of the Public Improvement Contract.

To the extent applicable, if a particular factor has no application whatsoever to the particular Public Improvement Contract or class of Public Improvement Contracts, the City does not need to consider that factor, and the City is not required to address the factor, other than to state why the factor has no application whatsoever to the particular Public Improvement Contract or class of Public Improvement Contracts.

- E. The City shall hold a public hearing before final adoption of the findings and a declaration of the exemption. Notification of the public hearing shall be published in at least one trade newspaper of general statewide circulation a minimum of 14 Days before the hearing;
  1. The Notice shall state that the public hearing is for the purpose of taking comments on the City's draft findings for an exemption from Competitive

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Bidding. At the time of the notice, copies of the draft findings shall be made available to the public.

2. At the hearing, the City shall offer an opportunity for any interested persons to appear and present comment;
3. Notice of the hearing may be published simultaneously with the City's Solicitation of contractors for the alternative public contracting method when the City is required to act promptly due to circumstances beyond the City's control that do not constitute an Emergency as long as responses to the Solicitation are due at least five (5) Days after the meeting and approval of the findings;

**F.** Addressing Cost Savings. Accordingly, when the Contract or class of Contracts under consideration for an exemption contemplates the use of Alternative Contracting Methods, the "substantial cost savings and other substantial benefits" requirement may be addressed by a combination of:

1. Specified Findings that address the factors and other information specifically identified by statute, including, but not limited to, an analysis or reasonable forecast of present and future cost savings and other substantial benefits; and
2. Additional Findings that address industry practices, surveys, trends, past experiences, evaluations of completed projects required by ORS 279C.355 and related information regarding the expected benefits and drawbacks of particular Alternative Contracting Methods. To the extent practicable, such Findings should relate back to the specific characteristics of the project or projects at issue in the exemption request.

**G.** Favoritism and Competition. The criteria at ORS 279C.335(2)(a) that it is "unlikely" that the exemption will "encourage favoritism" or "substantially diminish competition" may be addressed in contemplating the use of Alternative Contracting Methods by specifying the manner in which an RFP process will be utilized, that the Procurement will be formally advertised, competition will be encouraged, and Award made based upon identified selection criteria.

**H.** Class Exemptions.

1. In making the findings supporting a class exemption the City shall clearly identify "class" with respect to its defining characteristics pursuant to the requirements of ORS 279C.335(3) as indicated below:
  - a. The class cannot be based on a single characteristic or factor, so that the City directly or indirectly creates a class (e.g., using the CM/GC Method for all City construction projects, unidentified future

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construction projects of a particular work category, or all construction projects from a particular funding source such as the sale of bonds); and

- b.** The class must include a combination of factors to be defined by the City through characteristics that reasonably relate to the exemption criteria, and must reflect a detailed evaluation of those characteristics so that the class is defined in a limited way that effectively meets the City’s objectives while allowing for impartial and open competition and protecting the integrity of the exemption process (i.e., a series of renovation projects that involve renovations for a common purpose, require completion on a related schedule to avoid unnecessary disruption of operations, share common characteristics such as historic building considerations, presence of asbestos or other hazardous substances, or the presence of staff during construction, or otherwise possess characteristics that meet the requirements).

**2.** The following classes of Contracts are hereby exempt from the Competitive low Bidding requirements of this Chapter:

- a.** Contract Amendments. Contract amendments, pursuant to the authority granted by Subsection 5.34.020 C., and provided that the original Contract was executed in accordance with this chapter;
- b.** Tenant improvements. Tenant Improvements on City owned property are exempt from the requirements of Competitive low Bidding, but may be subject to other provisions of this Chapter or ORS 279C. Tenant improvements are exempt when:

  - (1)** The improvements are paid for in part, or in whole, by the tenant;
  - (2)** The improvements are primarily for the tenant’s benefit; and
  - (3)** The tenant hires the Contractor to perform the Work, whether or not a competitive process is used by the tenant.
- c.** Deficiency Corrections/Contractor on site. The City may hire a private Contractor to perform Work if:

  - (1)** The City finds that a Contractor hired by a private developer or Person is at or near the site where City Work needs to be performed and the cost proposed by the private Contractor is

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reasonable and the cost of the Work will be less than \$25,000; or

- (2) The City finds that a Contractor hired by the City is at or near the site where City Work needs to be performed; and
  - (a) The new Work is not within the Scope the original Contract and was not anticipated at the time that the original Contract was Awarded; and
  - (b) If the original Contract was less than \$25,000 the new work does not cause the total payment to the Contractor to exceed \$25,000; or
  - (c) If the original Contract was more than \$25,000, the new Work does increase the total amount paid to the Contractor by more than \$50,000.

**5.34.840 Competitive Proposals; General Procedures.**

(Amended by Ordinance Nos. 185898 and 187373, effective October 14, 2015.)

- A. General Application: The City may utilize the RFP outlined in Subsections 5.34.840 C. through D. below for Public Improvement Contracts, allowing flexibility in both Proposal evaluation and Contract negotiation, only in accordance with ORS 279C.330 to ORS 279C.337, ORS 279C.400 to 279C.410 and Sections 5.34.800 to 5.34.890, unless other applicable statutes control the City's use of competitive Proposals for Public Improvement Contracts. Nothing in this rule shall limit the use of evaluation factors or other matters expressly permitted by those additional rules or authorized by ordinance.
- B. Proposal Evaluation. Factors in addition to price may be considered in the selection process, but only as set forth in the RFP. Evaluation factors need not be precise predictors of future costs and performance, but to the extent possible such evaluation factors shall:
  - 1. Be reasonable estimates based on information available to the City;
  - 2. Treat all Proposals equitably; and
  - 3. Recognize that public policy requires that Public Improvements be constructed at the least overall cost to the City (see ORS 279C.305).
- C. Evaluation Factors.
  - 1. In basic negotiated construction contracting, where the only reason for an RFP is to consider factors other than price, those factors may consist of firm

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and personnel experience on similar projects, adequacy of equipment and physical plant, sources of supply, availability of key personnel, financial capacity, past performance, safety records, project understanding, proposed methods of construction, proposed milestone dates, references, service, the status of its Equal Employment Opportunity (EEO) certification, its efforts to diversify its workforce in order to reach all of the City's citizens and other related matters that could affect the cost or quality of the Work.

2. In CM/GC contracting, in addition to Subsection 5.33.840 D.1., those factors may also include the ability to respond to the technical complexity or unique character of the project, analyze and propose value engineering options, analyze energy efficiency measure or alternative energy options, coordinate multiple disciplines on the project, effectively utilize the time available to commence and complete the improvement, and related matters that could affect the cost or quality of the Work.
3. In Design-Build contracting, in addition to Subsections 5.33.840 D.1. and 2., those factors may also include design professional qualifications, specialized experience, preliminary design submittals, technical merit, design-builder team experience and related matters that affect cost or quality.

**D.** Contract Negotiations. Contract terms may be negotiated to the extent allowed by the RFP and Sections 5.34.800 to 5.34.890, provided that the general Work Scope remains the same and that the field of competition does not change as a result of material changes to the requirements stated in the Solicitation Document. See Section 5.34.850. Terms that may be negotiated consist of details of Contract performance, methods of construction, timing, assignment of risk in specified areas, fee, and other matters that affect cost or quality. For the CM/GC Method, terms that may be negotiated also include the specific scope of pre-construction services, the work to be performed by the CM/GC, and any other term that the City has identified as being subject to negotiation.

**5.34.845 Requests for Qualifications (RFQ).**

(Amended by Ordinance Nos. 181547 and 183445, effective January 6, 2010.) As provided by ORS 279C.405(1), the City may utilize Requests for Qualifications (RFQs) to obtain information useful in the preparation or distribution of a Request for Proposals (RFPs). When using RFQs as the first step in a two step solicitation process, in which distribution of the RFPs will be limited to the firms identified as most qualified through their submitted statements of qualification, the City shall first advertise and provide notice of the RFQ in the same manner in which RFP's are advertised, specifically stating that RFPs will be distributed only to the qualified firms in the RFQ process. The Chief Procurement Officer shall decide whether to permit protests at the end of the RFQ process. Thereafter, the City may distribute RFPs to those qualified firms without further advertisement of the solicitation.

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**5.34.850 Requests for Proposals (RFP).**

(Amended by Ordinance Nos. 184403, 185065, 185898 and 187373, effective October 14, 2015.)

- A.** Generally. The use of competitive Proposals must be specifically authorized for a Public Improvement Contract under the Competitive Bidding exception and exemption requirements of ORS 279C.335, Section 5.34.150 and Sections 5.34.800 to 5.34.890. Also see ORS 279C.337, ORS 279C.400 to 279C.410 for statutory requirements regarding competitive Proposals, and Section 5.34.840 regarding competitive Proposal procedures.
- B.** Solicitation Documents. In addition to the Solicitation Document requirements of Section 5.34.300, this rule applies to the requirements for Requests for Proposals. RFP Solicitation Documents shall conform to the following standards:
- 1.** The City shall set forth selection criteria in the Solicitation Document. Examples of evaluation criteria include price or cost, quality of a product or service, past performance, management, capability, personnel qualification, prior experience, compatibility, reliability, operating efficiency, expansion potential, experience of key personnel, adequacy of equipment or physical plant, financial wherewithal, sources of supply, references and warranty provisions. See Section 5.34.840. Evaluation factors need not be precise predictors of actual future costs and performance, but to the extent possible, such factors shall be reasonable estimates based on information available to the City. Subject to ORS 279C.410(4) the Solicitation Document may provide for discussions with Proposers to be conducted for the purpose of Proposal evaluation prior to award or prior to establishing any Competitive Range;
  - 2.** When the City is willing to negotiate terms and conditions of the Contract or allow submission of revised Proposals following discussions, the City must identify the specific terms and conditions in or provisions of the Solicitation Document that are subject to negotiation or discussion and authorize Offerors to propose certain alternative terms and conditions in lieu of the terms and conditions the City has identified as authorized for negotiation. The City must describe the evaluation and discussion or negotiation process, including how the City will establish the Competitive Range;
  - 3.** The anticipated size of the Competitive Range shall be stated in the Solicitation document, but may be decreased if the number of Proposers that submit Responsive Proposals is less than the specified number, or may be increased as provided in Subsection 5.34.850 D.1.b.

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4. When the City intends to Award Contracts to more than one Proposer, the City must identify in the Solicitation Document the manner in which it will determine the number of Contracts it will Award. The City shall also include the criteria it will use to determine how the City will endeavor to achieve optimal value, utility and substantial fairness when selecting a particular Contractor to provide Personal Services or Work from those Contractors Awarded Contracts.

**C. Evaluation of Proposals.**

1. Evaluation. The City shall evaluate Proposals only in accordance with criteria set forth in the RFP and applicable law. The City shall evaluate Proposals to determine the Responsible Proposer or Proposers submitting the best Responsive Proposal or Proposals.
  - a. Clarifications. In evaluating Proposals, The City may seek information from a Proposer to clarify the Proposer's Proposal. A Proposer must submit Written and Signed clarifications and such clarifications shall become part of the Proposer's Proposal.
  - b. Limited Negotiation. If the City did not permit negotiation in its Request for Proposals, the City may, nonetheless, negotiate with the highest-ranked Proposer, but may then only negotiate the:
    - (1) Statement of Work; and
    - (2) Contract Price as it is affected by negotiating the statement of Work.
    - (3) The process for discussions or negotiations that is outlined and explained in Subsections 5.34.850 E.2. and 5.34.850 F. does not apply to this limited negotiation.
2. Discussions; Negotiations. If the City permitted discussions or negotiations in the Request for Proposals, the City shall evaluate Proposals and establish the Competitive Range, and may then conduct discussions and negotiations in accordance with this rule.
  - a. If the Solicitation Document provided that discussions or negotiations may occur at City's discretion, the City may forego discussions and negotiations and evaluate all Proposals in accordance with this rule.
  - b. If the City proceeds with discussions or negotiations, the City shall establish a negotiation team tailored for the acquisition. The City's

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team may include legal, technical, auditing and negotiating personnel.

3. Cancellation. Nothing in this rule shall restrict or prohibit the City from canceling the Solicitation at any time.

**D. Competitive Range; Protest; Award.**

**1. Determining Competitive Range.**

**a.** If the City does not cancel the Solicitation, after the Opening the City will evaluate all Proposals in accordance with the evaluation criteria set forth in the Request for Proposals. After evaluation of all Proposals in accordance with the criteria set forth in the Request for Proposals, the City will rank the Proposers based on the City's scoring and determine the Competitive Range.

**b.** The City may increase the number of Proposers in the Competitive Range if the City's evaluation of Proposals establishes a natural break in the scores of Proposers indicating a number of Proposers greater than the initial Competitive Range are closely Competitive, or have a reasonable chance of being determined the best Proposer after the City's evaluation of revised Proposals submitted in accordance with the process described in this rule.

2. **Protesting Competitive Range.** The City shall provide Written notice to all Proposers identifying Proposers in the Competitive Range. A Proposer that is not within the Competitive Range may protest the City's evaluation and determination of the Competitive Range in accordance with Section 5.34.710.

3. **Intent to Award; Discuss or Negotiate.** After the protest period provided in accordance with these rules expires, or after the City has provided a final response to any protest, whichever date is later, the City may either:

**a.** Provide Written notice to all Proposers in the Competitive Range of its intent to Award the Contract to the highest-ranked Proposer in the Competitive Range.

**(1)** An unsuccessful Proposer may protest the City's intent to Award in accordance with Section 5.34.740.

**(2)** After the protest period provided in accordance with Section 5.34.740 expires, or after the City has provided a final response to any protest, whichever date is later, the City shall







response to any protest, whichever date is later, the City shall commence final Contract negotiations.

**F. Negotiations.**

- 1. Initiating Negotiations.** The City may determine to commence negotiations with the highest-ranked Proposer in the Competitive Range following the:
  - a.** Initial determination of the Competitive Range; or
  - b.** Conclusion of discussions with all Proposers in the Competitive Range and evaluation of revised Proposals.
- 2. Conducting Negotiations, Scope.** The City may negotiate:
  - a.** The statement of Work;
  - b.** The Contract Price as it is affected by negotiating the statement of Work; and
  - c.** Any other terms and conditions reasonably related to those expressly authorized for negotiation in the Request for Proposals. Accordingly, Proposers shall not submit, and City shall not accept, for negotiation any alternative terms and conditions that are not reasonably related to those expressly authorized for negotiation in the Request for Proposals.
- 3. Continuing Negotiations.** If the City terminates discussions or negotiations with a Proposer, the City may then commence negotiations with the next highest scoring Proposer in the Competitive Range, and continue the process described in this rule until the City has either:
  - a.** Determined to Award the Contract to the Proposer with whom it is currently discussing or negotiating; or
  - b.** Completed one round of discussions or negotiations with all Proposers in the Competitive Range, unless the City provided for more than one round of discussions or negotiations in the Request for Proposals, in which case the Contracting Agency may proceed with any authorized further rounds of discussions or negotiations.
- 4. Terminating Discussions or Negotiations.** At any time during discussions or negotiations conducted in accordance with this Rule, the City may terminate discussions or negotiations with the Proposer with whom it is currently conducting discussions or negotiations if the City reasonably believes that;

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- a.** The Proposer is not discussing or negotiating in good faith; or
- b.** Further discussions or negotiations with the Proposer will not result in the parties agreeing to the terms and conditions of a final Contract in a timely manner that will be in the best interests of the City. The determination of a timely manner and the best interests of the City are matters solely within the discretion of the City.

**5.34.860 RFP Pricing Mechanisms.**

(Amended by Ordinance Nos. 184403 and 187373, effective October 14, 2015.)

- A.** A Request for Proposals may result in a Contract with a lump sum Contract Price or a fixed Contract Price, as in the case of Competitive Bidding. Alternatively, a Request for Proposals may result in a cost reimbursement Contract with a GMP or some other maximum price specified in the Contract.
- B.** Economic incentives or disincentives may be included to reflect stated City purposes related to time of completion, safety or other Public Contracting objectives, including but not limited to, total least cost mechanisms such as Life Cycle Costing.
- C.** A Guaranteed Maximum Price (GMP) may be used as the pricing mechanism for Contracts for CM/GC Services where a total Contract Price is provided in the design phase in order to assist the City in determining whether the project Scope is within the City's budget, and allowing for design changes during preliminary design rather than after final design services have been completed.
  - 1.** If this collaborative process is successful, the Contractor shall propose a final GMP, which may be accepted by the City and included within the Contract.
  - 2.** If this collaborative process is not successful, and no mutually agreeable resolution on GMP can be achieved with the Contractor, then the City shall terminate the Contract. The City may then proceed to negotiate a new Contract (and GMP) with the firm that was next ranked in the original selection process, or employ other means for continuing the project under ORS Chapter 279C.
- D.** When cost reimbursement Contracts are utilized, regardless of whether a GMP is included, the City shall provide for audit controls that will effectively verify rates and ensure that costs are reasonable, allowable and properly allocated.

**5.34.870 Design-Build Contracts.**

(Amended by Ordinance No. 185898, effective February 20, 2013.)

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- A.** General. The Design-Build form of contracting, as defined in Subsection 5.34.810 C., has technical complexities that are not readily apparent. In order to use the Design-Build process, the City must be able to reasonably anticipate the following types of benefits:
1. Obtaining, through a Design-Build team, engineering design, plan preparation, value engineering, construction engineering, construction, quality control and required documentation as a fully integrated function with a single point of responsibility;
  2. Integrating value engineering suggestions into the design phase, as the construction Contractor joins the project team early with design responsibilities under a team approach, with the potential of reducing Contract changes;
  3. Reducing the risk of design flaws, misunderstandings and conflicts inherent in construction Contractors building from designs in which they have had no opportunity for input, with the potential of reducing Contract claims;
  4. Shortening project time as construction activity (early submittals, mobilization, subcontracting and advance Work) commences prior to completion of a "Biddable" design, or where a design solution is still required (as in complex or phased projects); and
  5. Obtaining innovative design solutions through the collaboration of the Contractor and design team, which would not otherwise be possible if the Contractor had not yet been selected.
- B.** Authority. Contracting Agencies shall utilize the Design-Build form of contracting only in accordance with the requirements of Sections 5.34.800 to 5.34.890 of these rules. See particularly Section 5.34.820 on "Use of Alternative Contracting Methods" and Section 5.34.880 pertaining to ESPCs.
- C.** Selection. Design-Build selection criteria may include those factors set forth above in Subsections 5.34.840 B.1., 2. and 3.
- D.** QBS Inapplicable. Because the value of construction services predominates the Design-Build form of contracting, the qualifications based selection (QBS) process is not applicable.
- E.** Licensing. If a Design-Build Contractor is not an Oregon licensed design professional, the City shall require that the Design-Build Contractor disclose in its Written Offer that it is not an Oregon licensed design professional, and identify the Oregon licensed design professional(s) who will provide design services. See ORS 671.030(2)(g) regarding the offer of architectural services, and ORS 672.060(11)

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regarding the offer of engineering services that are appurtenant to construction Work.

- F.** Performance Security. ORS 279C.380(1)(a) provides that for Design-Build Contracts the surety's obligation on performance bonds, or the Bidder's obligation on cashier's or certified checks accepted in lieu thereof, includes the preparation and completion of design and related Personal Services specified in the Contract. This additional obligation, beyond performance of construction services, extends only to the provision of professional services and related design revisions, corrective Work and associated costs prior to final completion of the Contract (or for such longer time as may be defined in the Contract). The obligation is not intended to be a substitute for professional liability insurance, and does not include errors and omissions or latent defects coverage.
- G.** Contract Requirements. The City shall conform its Design-Build contracting practices to the following requirements:
- 1.** Design Services. The level or type of design services required must be clearly defined within the Procurement documents and Contract, along with a description of the level or type of design services previously performed for the project. The Personal Services and Work to be performed shall be clearly delineated as either design Specifications or performance standards, and performance measurements must be identified.
  - 2.** Professional Liability. The Contract shall clearly identify the liability of design professionals with respect to the Design-Build Contractor and the City, as well as requirements for professional liability insurance.
  - 3.** Risk Allocation. The Contract shall clearly identify the extent to which the City requires an express indemnification from the Design-Build Contractor for any failure to perform, including professional errors and omissions, design warranties, construction operations and faulty Work claims.
  - 4.** Warranties. The Contract shall clearly identify any express warranties made to the City regarding characteristics or capabilities of the completed project (regardless of whether errors occur as the result of improper design, construction, or both), including any warranty that a design will be produced that meets the stated project performance and budget guidelines.
  - 5.** Incentives. The Contract shall clearly identify any economic incentives and disincentives, the specific criteria that apply and their relationship to other financial elements of the Contract.

6. Honoraria. If allowed by the RFP, honoraria or stipends may be provided for early design submittals from qualified finalists during the Solicitation process on the basis that the City is benefited from such deliverables.

**5.34.880 Energy Savings Performance Contracts (ESPC).**

(Amended by Ordinance Nos. 185898 and 187373, effective October 14, 2015.)

- A. Generally. Sections 5.34.800 to 5.34.890 include a limited, efficient method for the City to enter into ESPCs outside the competitive bidding requirements of ORS 279C.335 for existing buildings or structures, but not for new construction. If the City chooses not to utilize these rules, the City may still enter into an ESPC by complying with the competitive bidding exemption process set forth in ORS 279C.335, or by otherwise complying with the Procurement requirements applicable to any City not subject to all the requirements of ORS 279C.335. The following definitions shall apply specifically to Energy Savings Performance Contracts (or "ESPC"), unless the context requires otherwise.
  1. Energy Conservation Measures (or "ECMs") (also known as "energy efficiency measures"). As used in ESPC Procurement, any equipment, fixture or furnishing to be added or used in an existing building, structure or building/structure system, and any repair, alteration or improvement to an existing building, structure or building/structure system that is designed to reduce energy consumption and related costs, including those costs related to electrical energy, thermal energy, water consumption, waste disposal, and future contract-labor costs and materials costs associated with maintenance of the building or structure. Maintenance services are not Energy Conservation Measures, for purposes of this Section.
  2. Energy Savings Guarantee. The energy savings and performance guarantee provided by the ESCO under an ESPC Procurement, which guarantees to the City that certain energy savings and performance will be achieved for the project covered by the RFP, through the installation and implementation of the agreed-upon ECMs for the project. The Energy Savings Guarantee shall include, but shall not be limited to, the specific energy savings and performance levels and amounts that will be guaranteed, provisions related to the financial remedies available to the City in the event the guaranteed savings and performance are not achieved, the specific conditions under which the ESCO will guarantee energy savings and performance (including the specific responsibilities of the City after final completion of the design and construction phase), and the term of the energy savings and performance guarantee.
  3. Energy Savings Performance Contract (or "ESPC"). A Public Improvement Contract between The City and a Qualified Energy Service Company for the identification, evaluation, recommendation, design and construction of





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services and required documentation as a fully integrated function with a single point of responsibility;

2. Obtaining, through an ESCO, an Energy Savings Guarantee;
  3. Integrating the Technical Energy Audit phase and the Project Development Plan phase into the design and construction phase of Work on the project;
  4. Reducing the risk of design flaws, misunderstandings and conflicts inherent in the construction process, through the integration of ESPC Personal Services and Work;
  5. Obtaining innovative design solutions through the collaboration of the members of the ESCO integrated ESPC services team;
  6. Integrating cost-effective ECMs into an existing building or structure, so that the ECMs pay for themselves through savings realized over the useful life of the ECMs;
  7. Preliminary design, development, implementation and an Energy Savings Guarantee of ECMs into an existing building or structure through an ESPC, as a distinct part of a major remodel of that building or structure that is being performed under a separate remodeling Contract; and
  8. Satisfying local energy efficiency design criteria or requirements.
- D.** In ESPC contracting, terms that may be negotiated also include the Scope of preliminary design of DCMs to be evaluated by the parties during the Technical Energy Audit phase of the Work, the Scope of Personal Services and Work to be performed by the ESCO during the Project Development Plan phase of the Work, the detailed provisions of the Energy Savings Guarantee to be provided by the ESCO and Scope of Work, methodologies and compensation terms and conditions during the design and construction phase and M & V phase of the Work, consistent with the requirements of this Section.
- E.** In Energy Savings Performance Contracting (ESPC), in addition to the factors set forth in Subsections 5.33.840 C.1., 2. and 3., those factors may also include sample Technical Energy Audits from similar projects, sample M & V reports, financial statements and related information of the ESCO for a time period established in the RFP, financial statements and related information of joint ventures comprising the ESCO, the ESCO's capabilities and experience in performing energy baseline studies for facilities (independently or in cooperation with an independent third-party energy baseline consultant), past performance of the ESCO in meeting energy guarantee Contract levels, the specific Person that will provide the Energy Savings Guarantee to be offered by the ESCO, the ESCO's management plan for the project,

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information on the specific methods, techniques and equipment that the ESCO will use in the performance of the Work under the ESPC, the ESCO's team members and consultants to be assigned to the project, the ESCO's experience in the Energy Savings Performance Contracting field, the ESCO's experience acting as the prime Contractor on previous ESPC projects (as opposed to a sub-contractor or consultant to a prime ESCO), the ESCO's vendor and product neutrality related to the development of ECMs, the ESCO's project history related to removal from an ESPC project or the inability or unwillingness of the ESCO to complete an ESPC project, the ESCO's M & V capabilities and experience (independently or in cooperation with an independent third-party M & V consultant), the ESCO's ability to explain the unique risks associated with ESPC projects and the assignment of risk in the particular project between the City and the ESCO, the ESCO's equipment performance guarantee policies and procedures, the ESCO's energy savings and cost savings guarantee policies and procedures, the ESCO's project cost guarantee policies and procedures, the ESCO's pricing methodologies, the price that the ESCO will charge for the Technical Energy Audit phase of the Work and the ESCO's fee structure for all phases of the ESPC.

- F.** Authority. Bureaus wanting to pursue an exemption from the Competitive Bidding requirements of ORS 279C.335 (and, if applicable, ORS 351.086), shall utilize the ESPC form of contracting only in accordance with the requirements of Sections 5.34.800 through 5.34.890.
- G.** No Findings. The City is only required to comply with the ESPC contracting procedures set forth in Sections 5.34.800 through 5.34.890 in order for the ESPC to be exempt from the competitive bidding processes of ORS 279C.335. No Findings are required for an ESPC to be exempt from the competitive bidding process for Public Improvement Contracts pursuant to ORS 279C.335, unless the City is subject to the requirements of ORS 279C.335 and chooses not to comply with the ESPC contracting procedures set for in these rules.
- H.** Selection. ESPC selection criteria may include those factors set forth above in Subsections 5.34.840 C.1., 2., and 3. Since the Energy Savings Guarantee is such a fundamental component in the ESPC contracting process, Proposers must disclose in their Proposals the identity of any Person providing (directly or indirectly) any Energy Savings Guarantee that may be offered by the successful ESCO during the course of the performance of the ESPC, along with any financial statements and related information pertaining to any such Person.
- I.** QBS Inapplicable. Because the value of construction Work predominates in the ESPC method of contracting, the qualifications based selection (QBS) process mandated by ORS 279C.110 is not applicable.
- J.** Licensing. If the ESCO is not an Oregon licensed design professional, the City shall require that the ESCO disclose in the ESPC that it is not an Oregon licensed

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design professional, and identify the Oregon licensed design professional(s) who will provide design services. See ORS 671.030(5) regarding the offer of architectural services, and ORS 672.060(11) regarding the offer of engineering services that are appurtenant to construction Work.

- K.** Performance Security. At the point in the ESPC when the parties enter into a binding Contract that constitutes a Design-Build Contract, the ESCO must provide a performance bond and payment bond, each for 100 percent of the full Contract Price, including the construction Work and design and related Personal Services specified in the ESPC Design-Build Contract, pursuant to ORS 279C.380(1)(a). For ESPC Design-Build Contracts, these "design and related professional services" include conventional design services, commissioning services, training services for the City's operations and maintenance staff, and any similar Personal Services or Work provided by the ESCO under the ESPC Design-Build Contract prior to final completion of construction. M & V services, and any Personal Services and Work associated with the ESCO's Energy Savings Guarantee are not included in these ORS 279C.380(1)(a) "design and related professional services." Nevertheless, The City may require that the ESCO provide performance security for M & V services and any Personal Services and Work associated with the ESCO's Energy Savings Guarantee, if the City so provides in the RFP.
- L.** Contracting Requirements. Contracting Agencies shall conform their ESPC contracting practices to the following requirements:
- 1.** General ESPC Contracting Practices. An ESPC involves a multi-phase project, which includes the following contractual elements:
    - a.** A contractual structure which includes general Contract terms describing the relationship of the parties, the various phases of the Work, the contractual terms governing the Technical Energy Audit for the project, the contractual terms governing the Project Development Plan for the project, the contractual terms governing the final design and construction of the project, the contractual terms governing the performance of the M & V services for the project, and the detailed provisions of the ESCO's Energy Savings Guarantee for the project.
    - b.** The various phases of the ESCO's Work will include the following:
      - (1)** The Technical Energy Audit phase of the Work;
      - (2)** The Project Development Plan phase of the Work;
      - (3)** A third phase of the Work that constitutes a Design-Build Contract, during which the ESCO completes any plans and

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Specifications required to implement the ECMs that have been agreed to by the parties to the ESPC, and the ESCO performs all construction, commissioning, construction administration and related Personal Services or Work to actually construct the project; and

- (4) A final phase of the Work, whereby the ESCO, independently or in cooperation with an independent consultant hired by the City, performs M & V services to ensure that the Energy Savings Guarantee identified by the ESCO in the earlier phases of the Work and agreed to by the parties has actually been achieved.
2. Design-Build Contracting Requirements in ESPCs. At the point in the ESPC when the parties enter into a binding Contract that constitutes a Design-Build Contract, the City shall conform its Design-Build contracting practices to the Design-Build contracting requirements set forth in Subsection 5.34.870 G. above.
3. Pricing Alternatives. The City may utilize one of the following pricing alternatives in an ESPC:

  - a. A fixed price for each phase of the Personal Services and Work to be provided by the ESCO;
  - b. A cost reimbursement pricing mechanism, with a maximum not-to-exceed price or a GMP; or
  - c. A combination of a fixed fee for certain components of the Personal Services to be performed, a cost reimbursement pricing mechanism for the construction Work to be performed with a GMP, a single or annual fixed fee for M & V services to be performed for an identified time period after final completion of the construction Work, and a single or annual Energy Savings Guarantee fixed fee payable for an identified time period after final completion of the construction Work that is conditioned on certain energy savings being achieved at the facility by the ECMs that have been implemented by the ESCO during the project (in the event an annual M & V services fee and annual Energy Savings Guarantee fee is utilized by the parties, the parties may provide in the Design-Build Contract that, at the sole option of the City, the ESCO's M & V services may be terminated prior to the completion of the M & V/Energy Savings Guarantee period and the City's future obligation to pay the M & V services fee and Energy Savings Guarantee fee will likewise be terminated, under terms agreed to by the parties).

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4. Permitted ESPC Scope of Work. The Scope of Work under the ESPC is restricted to implementation and installation of ECMs, as well as other Work on building systems or building components that are directly related to the ECMs, and that, as an integrated unit, will pay for themselves over the useful life of the ECMs installed. The permitted Scope of Work for ESPCs resulting from a Solicitation under Sections 5.34.800 to 5.34.890 rules does not include maintenance services for the project facility.

**5.34.890 Construction Manager/General Contractor Services (CM/GC Services).**

(Amended by Ordinance Nos. 181547, 185898 and 187373, effective October 14, 2015.)

- A. **General.** The CM/GC Method is a technically complex project delivery system. City bureaus shall use this contracting method only with the assistance of legal counsel, as well as knowledgeable staff, consultants or both staff and consultants who have a demonstrated capability of managing the CM/GC Method, in the necessary disciplines of engineering, construction scheduling and cost control, accounting, legal, Public Contracting and project management. Unlike the Design-Build Method, the CM/GC Method does not contemplate a "single point of responsibility" under which the CM/GC is responsible for successful completion of all Work related to a performance Specification. The CM/GC has defined Contract obligations, including responsibilities as part of the project team along with the City and design professional, although with the CM/GC Method there is a separate Contract between the City and the design professional(s). In order to utilize the CM/GC Method, the City must be able to reasonably anticipate the following types of benefits:

1. Time Savings. With the CM/GC Method, the Public Improvement has significant schedule ramifications, such that concurrent design and construction are necessary in order to meet critical deadlines and shorten the overall duration of construction. The City may consider operational and financial data that show significant savings or increased opportunities for generating revenue as a result of early completion, as well as less disruption to public facilities as a result of shortened construction periods;
2. Cost Savings. With the CM/GC Method, early CM/GC input during the design process is expected to contribute to significant cost savings. The City may consider value engineering, building systems analysis, Life Cycle Costing analysis and construction planning that lead to cost savings. The City shall specify any special factors influencing this analysis, including high rates of inflation, market uncertainty due to material and labor fluctuations or scarcities, and the need for specialized construction expertise due to technical challenges; and
3. Technical Complexity. With the CM/GC Method, the Public Improvement presents significant technical complexities that are best addressed by a

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collaborative or team effort between the City, design professionals, City project management or technical consultants and the CM/GC, in which the CM/GC will assist in addressing specific project challenges through pre-construction services. The City may consider the need for CM/GC input on issues such as operations of the facility during construction, tenant occupancy, public safety, delivery of an early budget or GMP, financing, historic preservation, difficult remodeling projects and projects requiring complex phasing or highly coordinated scheduling.

- B. Authority.** The City shall use the CM/GC Method only in accordance with the requirements of ORS 279C.337, when an exemption from Competitive Bidding is approved by Council. See particularly, Section 5.34.820 on "Use of Alternative Contracting Methods".
- C. Selection.** CM/GC selection criteria may include those factors set forth above in Subsection 5.34.840 C. The City shall, in documents the City uses to procure CM/GC Services.
1. Describe the selection criteria and the weight of each criterion in the evaluation process;
  2. Describe how interviews will be used and evaluated, if interviews are to be used in the selection;
  3. Describe any other criteria that may be considered in selecting a CM/GC;
  4. Describe how scoring from the evaluation of the written proposals and interviews will be combined to arrive at a Proposer's final score and ranking;
  5. State that any Savings the CM/GC realizes in performing the Contract will accrue to the City, unless the Contract provides otherwise;
  6. Specify terms and conditions that govern how the fixed price, GMP or other maximum price set forth in the Contract will be determined and whether the price includes or is based on unit pricing or allows for Work that is constructed in phases;
  7. State that the City will not pay any amount that exceeds a fixed price, GMP or other maximum price specified in the Contract unless the amount results from material changes to the scope of work set forth in the Contract and the parties to the Contract agree in writing to the material changes;
  8. State that the City will conduct the procurement in accordance with model rules the Attorney General adopts under ORS 279A.065 (3); and

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9. Specify deadlines and time periods for the selection that allow prospective Proposers a reasonable opportunity to submit proposals, including but not limited to:
  - a. The date and time by which the City must receive proposals;
  - b. The time periods during which the City will conduct interviews, if the City will conduct interviews;
  - c. The date by which the City plans to indicate an intent to award the Contract; and
  - d. The time period during which the City will meet with Proposers that the City did not select for the Contract, if a Proposer requests a meeting to discuss the procurement.
  
- D. **Basis for Payment.** The CM/GC process adds specified Construction Manager Professional, Technical and Expert Services to traditional design-bid-build general contractor Work, requiring full Contract performance within a negotiated GMP, fixed Contract Price or other maximum Contract Price. For a GMP pricing method, the basis for payment is reimbursable direct costs as defined under the Contract, plus a fee constituting full payment for Work and Professional, Technical and Expert Services rendered, which together shall not exceed the GMP. See GMP definition at Subsection 5.34.810 E. and Pricing Mechanisms in Section 5.34.860.
  
- E. **Contract Requirements.** The City shall conform its CM/GC Services contracting practices to the following requirements:
  1. Nature of the Contracts for CM/GC Services. Since the scope of CM/GC Services includes a pre-construction phase of Professional, Technical and Expert Services and a construction phase Work to be performed by the CM/GC, the City may award one or more Contracts for CM/GC Services. In general, Contracts for CM/GC Services will include contract provisions that will not only govern the relationship between the City and the CM/GC for the pre-construction Professional, Technical and Expert Services, but will also include provisions that will govern the CM/GC's providing of the Work necessary to complete the Public Improvement. The City will only authorize the construction phase or phases of a portion of the project or the entire project upon successful negotiation of the GMP. For purposes of paying BOLI prevailing wages, a CM/GC Services Contract becomes a public works Contract at the time covered Work activities commence, through authorized Early Work during the pre-construction phase or construction phase Work.

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2. Setting the GMP, Fixed Contract Price or Other Maximum Contract Price. The GMP, fixed Contract price or other maximum Contract Price shall be set at an identified time consistent with industry practice and project conditions and after supporting information reasonably considered necessary to its use has been developed. The supporting information for the GMP must define with particularity both what Professional, Technical and Expert Services and Work is included and/or excluded from the GMP, fixed Contract price or other maximum Contracts Price. A set of project drawings and Specifications shall be produced establishing the scope of Work contemplated by the GMP, fixed Contract price or other maximum Contract Price.
3. Adjustments to the GMP, Fixed Contract Price or Other Maximum Contract Price. The Contract shall clearly identify the standards or factors under which changes or additional Work will be considered outside of the Work Scope that warrants an increase in the GMP, fixed Contract price or other maximum Contract Price as well as criteria for decreasing the GMP, fixed Contract price or other maximum Contract Price. The GMP, fixed Contract price or other maximum Contract Price shall not be increased without a concomitant increase to the scope of Work defined at the establishment of the GMP, fixed Contract price or other maximum Contract Price or most recent amendment to the GMP, fixed Contract price or other maximum Contract Price.
4. Cost Savings. The Contract shall clearly identify the disposition of any Cost Savings resulting from completion of the Work below the GMP, fixed Contract price or other maximum Contract Price; that is, under what circumstances, if any, the CM/GC might share in those Cost Savings, or whether the Cost Savings accrue only to the City's benefit. Unless there is a clearly articulated reason for sharing the Cost Savings set forth in the Contract, the Cost Savings must accrue to the City .)
5. Cost Reimbursement. The Contract shall clearly identify what items or categories of items are eligible for cost reimbursement within the GMP or other maximum Contract Price.
6. Audit. Cost reimbursements shall be made subject to final audit adjustment, and the Contract shall establish an audit process to ensure that Contract costs are allowable, properly allocated and reasonable.
7. Fee. Compensation for the CM/GC's Personal Services and construction Work where the Contract uses a GMP, shall be paid on the basis of a fee that is inclusive of profit, overhead and all other indirect or non-reimbursable costs. Costs determined to be included within the fee shall be expressly defined in the Contract terms and conditions at the time the City



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selects the CM/GC. The fee, which may be expressed as either a fixed dollar amount or as a proposed percentage of all reimbursable costs, shall be identified during and become an element of the selection process. It shall subsequently be expressed as a fixed amount for particular construction Work authorized to be performed, when Early Work is added to the Contract through an amendment and when the GMP is established. The CM/GC fee does not include any fee paid to the CM/GC for performing preconstruction services during a separate preconstruction phase.

- 8.** Incentives. The Contract shall clearly identify any economic incentives, the specific criteria that apply and their relationship to other financial elements of the Contract (including the GMP, fixed Contract price or other maximum Contract Price).
- 9.** Controlled Insurance Programs. For projects where an owner-controlled or contractor-controlled insurance program is permitted, the Contract shall clearly identify whether an Owner Controlled or Contractor Controlled Insurance Program is anticipated or allowable. If so, the Contract shall clearly identify:

  - a.** anticipated cost savings from reduced premiums, claims reductions and other factors;
  - b.** the allocation of cost savings; and
  - c.** safety responsibilities, incentives or both safety responsibilities and incentives.
- 10.** Early Work. The RFP shall clearly identify, whenever feasible, the circumstances under which any Early Work may be authorized and undertaken for compensation prior to establishing the GMP, fixed Contract price or other maximum Contract price.
- 11.** Subcontractor Selection. Subcontracts under the Contract are not Public Contracts within the meaning of the Code. However, the Contract must include provisions that clearly meet the requirements of ORS 279C.337(3) and other City requirements. Within the scope of ORS 279C.337(3), the CM/GC's subcontractor selection process must meet the following parameters:

  - a.** Absent a written justification prepared by the CM/GC and approved by the City as more particularly provided for in this section, the CM/GC's Subcontractor selection process must be "competitive", meaning that the process should include publicly advertised subcontractor solicitations and be based on a low-bid competitive

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method, a low-quote competitive method for contracts in a specified dollar range agreeable to the City, or a method whereby both price and qualifications of the subcontractors are evaluated in a competitive environment, consistent with the RFP and Contract requirements;

- b.** When the Subcontractor selection process for a particular Work package will not be “competitive” as provided for in this section, the process must meet the following requirements:
- (1)** The CM/GC must prepare and submit a written justification to the City, explaining the project circumstances that support a non-competitive Subcontractor selection process for a particular Work package, including, but not limited to, Emergency circumstances, the CM/GC’s need to utilize a key Subcontractor member of the CM/GC’s project team consistent with the CM/GC’s project proposal, the need to meet other specified Contract requirements, the continuation or expansion of an existing Subcontractor agreement that was awarded through a “competitive process” along with facts supporting the continuation or expansion of the Subcontractor agreement, or a “sole source” justification;
  - (2)** For a “sole source” selection of a subcontractor to proceed, the City must evaluate the written justification provided by the CM/GC and must find that critical project efficiencies require utilization of labor, services or materials from one subcontractor; that technical compatibility issues on the project require labor, services or materials from one subcontractor; that particular labor, services or materials are needed as part of an experimental or pilot project or as part of an experimental or pilot aspect of the project; or that other project circumstances exist to support the conclusion that the labor, services or materials are available from only one subcontractor;
  - (3)** The CM/GC must provide an independent cost estimate for the Work package that will be subject to the non-competitive process, if required by the City;
  - (4)** The CM/GC must fully respond to any questions or comments submitted to the CM/GC by the City; and

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- (5)** The City must approve the CM/GC's use of the non-competitive Subcontractor selection process prior to the CM/GC's pursuit of the non-competitive process.
  - c.** A competitive selection process may be preceded by a publicly advertised subcontractor pre-qualification process, with only those subcontractors meeting the pre-qualification requirements being invited to participate in the later competitive process through which the CM/GC will select the subcontractor to perform the construction Work described in the selection process;
  - d.** If the CM/GC or an Affiliate or subsidiary of the CM/GC will be included in the subcontractor selection process to perform particular construction Work on the project, the CM/GC must disclose that fact in the selection process documents and announcements. The Contract must also identify the conditions, processes and procedures the CM/GC will utilize in that competitive process in order to make the process impartial, competitive and fair, including but not limited to objective, independent review and opening of bids or proposals for the elements of Work involved, by a representative of the City or another independent third party.
- 12.** Subcontractor Approvals and Protests. The Contract shall clearly establish whether the City must approve subcontract Awards, and to what extent, if any, the City will resolve or be involved in the resolution of protests of the CM/GC's selection of Subcontractors and suppliers. The procedures and reporting mechanisms related to the resolution of Subcontractor and supplier protests shall be established in the Contract with certainty, including the CM/GC's roles and responsibilities in this process and whether the CM/GC's subcontracting records are considered to be public records. In any event, the City must retain the right to monitor the subcontracting process in order to protect City's interests and to confirm the CM/GC's compliance with the contract and with applicable statutes, administrative rules and other legal requirements.
- 13.** CM/GC Self-Performance or Performance by CM/GC Affiliates or Subsidiaries Without Competition. Consistent with the requirements of ORS 279C.3337(3)(c), the Contract must establish the conditions under which the CM/GC or an Affiliate or subsidiary of the CM/GC may perform elements of the Work without competition from subcontractors. In order for the CM/GC or an Affiliate or subsidiary of the CM/GC to perform elements of the construction Work without competition from subcontractors, the CM/GC must provide, or must have included in the CM/GC's RFP proposal to perform CM/GC Services for the project, a detailed proposal for performance of the Work by the CM/GC or an

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Affiliate or subsidiary of the CM/GC. If required by the City, the CM/GC's proposal to perform the construction Work must be supported by at least one independent cost estimate prior to the Work being included in the Contract.

- 14.** Unsuccessful Subcontractor Briefing. ORS 279C.337(3)(e) is designed to allow a subcontractor who was not selected by the CM/GC to perform a particular element of the construction Work to obtain specific information from the CM/GC, and meet with the CM/GC to discuss the subcontractor qualification and selection process involved and the CM/GC's subcontractor selection decisions, in order to better understand why the subcontractor was not successful in being selected to perform the particular element of the Work and to improve the subcontractor's substantive qualifications or the subcontractor's methods in competing for elements of the Work for the particular project involved, or for future projects. The briefing meetings may be held with individual subcontractors or, if the subcontractors agree, in groups of subcontractors, with those groups established by bid package or other designation agreed to by the City and the CM/GC. Nevertheless, the CM/GC is not obligated to provide this briefing opportunity unless the CM/GC receives a written request from a subcontractor to discuss the subcontractor qualification and selection process involved. Unless the City and the CM/GC agree on a different schedule, the CM/GC Contract should include provisions:

  - a.** Allowing a Subcontractor 60 days from the CM/GC's notice of award of a subcontract for a particular Work package to request, in writing, a post-selection meeting with the CM/GC under this section; and
  - b.** Requiring the CM/GC to set a meeting with the subcontractor under this section within 45 days of the Subcontractor's written request.
- 15.** Performance and Payment Bonds. Provided no construction Work is included with the preconstruction services to be performed under the initial form of the CM/GC Contract, no performance bond or payment bond is required to be provided by the CM/GC at the time of Contract signing, consistent with ORS 279C.380. Once construction Work is included in the Contract and authorized by the City to be performed by the CM/GC, however, the CM/GC must provide a performance bond and payment bond in the full amount of any Early Work to be performed by the CM/GC, or the full amount of the amount of the GMP, fixed price or other maximum Contract Amount, as applicable. Furthermore, in the event additional Early Work is added to the CM/GC Contract after the initial Early Work or in the event an amendment to the CM/GC Contract is made so that the GMP, fixed price or other maximum Contract Amount must be increased, the

performance bond and the payment bond must be increased in an amount equal to the additional Early Work or the increased GMP, fixed price or other maximum Contract Amount.

16. Independent Review of CM/GC Performance: Conflicts of Interest. If the City requires independent review, monitoring, inspection or other oversight of a CM/GC's performance of pre-construction Professional, Technical and Expert Services, construction Work or both pre-construction and construction Work, the City must obtain those independent review services from a Contractor independent of the CM/GC, the CM/GC's Affiliates and the CM/GC's Subcontractors, pursuant to the requirements of ORS 279C.307. However, ORS 279C.307 does not prohibit the following:
  - a. The CM/GC's performance of both pre-construction Professional, Technical and Expert Services and construction Work that are included within the definition of CM/GC Services, consistent with ORS 279C.307(2); or
  - b. The CM/GC's performance of internal quality control services, quality assurance services or other internal peer review of CM/GC work product that is intended to confirm the CM/GC's performance of the CM/GC Contract according to its terms.
17. Socio-Economic Programs. The Contract shall clearly identify conditions relating to any required socio-economic programs, including the manner in which such programs affect the CM/GC's subcontracting requirements, the enforcement mechanisms available, and the respective responsibilities of the CM/GC and City.

**5.34.900 Required Contract Clauses.**

(Amended by Ordinance No. 185898, effective February 20, 2013.) The City shall include in all formal Solicitations for Public Improvement Contracts all of the ORS Chapter 279C required Contract clauses, as set forth in the checklist contained in Section 5.34.300 regarding Solicitation Documents. The following series of rules provide further guidance regarding particular Public Contract provisions.

**5.34.910 Waiver of Delay Damages Against Public Policy.**

Any clause in a Public Improvement Contract purporting to waive, release, or extinguish the rights of a Contractor to damages resulting from The City's unreasonable delay in performing the Contract is void and unenforceable, as against public policy. However, Contract provisions requiring notice of delay, providing for alternative dispute resolution such as arbitration (where allowable) or mediation, providing other procedures for settling Contract disputes, or providing for reasonable liquidated damages, are permissible.

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**5.34.915 BOLI Public Works Bond.**

(Amended by Ordinance No. 184403, effective February 2, 2011.) Pursuant to ORS 279C.830(2), the specifications for every Public Works Contract shall contain a provision stating that the Contractor and every subcontractor must have a Public Works bond filed with the Construction Contractors Board before starting Work on the project, unless otherwise exempt. This bond is in addition to performance bond and payment bonds requirements.

**5.34.920 Retainage.**

(Amended by Ordinance Nos. 181547, 183445, 185898 and 187373, effective October 14, 2015.)

- A.** Retainage of 5 Percent. The amount to be retained from any given progress payment shall not exceed 5 percent of the payment. If the Contract Work is 50 percent completed and the Work is progressing satisfactorily, the City may, at its discretion, reduce or eliminate the retainage on the remaining progress payments. Any reduction or elimination of retainage shall be allowed only upon Written application of the Contractor, which application shall include Written approval of the Contractor's surety; except that when the Contract Work is 97.5 percent completed, the City may, at its discretion and without application by the Contractor, reduce the retained amount to 100 percent of the value of the Contract Work remaining to be done. Upon receipt of a Written application by the Contractor, the City shall respond in Writing within a reasonable time. If retainage has been reduced or eliminated, the City reserves the right in protecting its interests to reinstate at any time retainage from further progress payments.
- B.** Form of Retainage. Unless the City finds in writing that accepting a bond or instrument described in 1. and 2. of this Subsection poses an extraordinary risk that is not typically associated with the bond or instrument, the City, in lieu of withholding moneys from payment, shall accept from the Contractor:

  - 1.** Bonds, securities, or other instruments that are deposited and accepted as provided in Subsection 5.34.920 D.1. of this rule; or
  - 2.** A surety bond deposited as provided in Subsection 5.34.920 D. of this rule.
- C.** Deposit in Interest-bearing Accounts. Upon request of the Contractor, the City shall deposit cash retainage in an interest-bearing account in a bank, savings bank, trust company, or savings association, for the benefit of the City. Earnings on such account shall accrue to the Contractor. The City may determine the account into which the retainage is placed.
- D.** Alternatives to Cash Retainage. In lieu of cash retainage to be held by the City, the Contractor may select one of the following options:

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1. Deposit of bonds, securities and other instruments:
  - a. The Contractor may deposit bonds, securities or other instruments with the City as set forth in Section 5.34.920 or in any bank or trust company to be held for the benefit of the City. If the City accepts the deposit, the City shall reduce the retainage in an amount equal to the value of the bonds and securities. This reduction in retainage shall be made in the progress payments made subsequent to the time the Contractor deposits the bonds and securities;
  - b. The value of the bonds and securities shall be determined periodically by the City, in the manner described in Subsection 5.34.920 D.1.c., and the amount retained on progress payments shall be adjusted accordingly. The bonds and securities deposited by the Contractor shall be fully assigned to the City or be payable to the City on demand and shall be of a character approved by the City Treasurer and in a form approved by the City Attorney including, but not limited to, the following:
    - (1) Bills, certificates, notes or bonds of the United States;
    - (2) Other obligations of the United States or agencies of the United States;
    - (3) Obligations of any corporation wholly owned by the federal government;
    - (4) Indebtedness of the Federal National Mortgage Association;
    - (5) General obligation bonds of the State of Oregon or a political subdivision of the State of Oregon; or
    - (6) Irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008.
  - c. The value of bonds and securities deposited by the Contractor shall be calculated as follows:
    - (1) As to bonds or securities for which the “Bid” and “asked” prices are published on a regular basis in the Wall Street Journal or in the New York Times, the value shall be the average of the “Bid” and “asked” prices for the bonds or securities so published on (or most recently prior to) the date value is determined;

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- (2) As to bonds or securities for which the “Bid” and “asked” prices are not published in the Wall Street Journal or the New York Times, the value shall be either: the average “Bid” price for the bond or security, on the date value is determined, as established by any two nationally recognized government securities dealers (selected by the City in its sole discretion) making a market in such investments; or, the “Bid” price published by a nationally recognized pricing service;
  - (3) As to certificates of deposit and bankers acceptances, the value shall be the face amount thereof, plus accrued interest.
- d. At the time the City determines that all requirements for the protection of the City’s interest have been fulfilled, all bonds and securities deposited as above provided shall be released to the Contractor.
- 2. Execution of Escrow Agreement. The Chief Procurement Officer is authorized to execute any escrow agreement necessary to safeguard deposit of securities with the City subject to approval as to form by the City Attorney.
- 3. Deposit in Interest-Bearing Accounts. Upon Written request of the Contractor, the City shall deposit any amounts withheld as retainage in an interest-bearing account in a bank, savings bank, trust company or savings association for the benefit of the City. Earnings on such account shall accrue to the Contractor but the interest shall remain in the account until the City authorizes its release. The account shall be established through the City Treasurer.
- E. Recovery of Costs. If the City incurs additional costs as a result of the exercise of any of the options for retainage, the City may recover such costs from the Contractor by reduction of the final payment. As Work on the Contract progresses, the City shall, upon request, inform the Contractor of all accrued costs.
- F. Additional Retainage When Certified Payroll Statements not Filed. Pursuant to ORS 279C.845(7), if a Contractor is required to file certified payroll statements and fails to do so, the City shall retain 25 percent of any amount earned by the Contractor on a Public Works Contract until the Contractor has filed such statements with the City. The City shall pay the Contractor the amount retained under this provision within 14 days after the Contractor files the certified statements, regardless of whether a subcontractor has filed such statements.



**5.34.930 Social Equity Contracting and Employment Programs.**

(Amended by Ordinance No. 185898, effective February 20, 2013.) From time to time, the City may adopt programs designed to promote competition, enhance economic opportunity and stimulate hiring among all of Portland's citizens. When such programs are adopted, they shall be included or sufficiently referenced in the Solicitation and Contract Documents so that Persons desiring to enter into Contracts with the City are aware of their requirements.

**5.34.940 Public Works Contracts.**

(Amended by Ordinance Nos. 181547, 183445 and 185065, effective January 1, 2012.)

**A. Required Contract Conditions.** Every Public Works Contract must contain the following provisions:

1. City authority to pay certain unpaid claims and charge such amounts to Contractors, as set forth in ORS 279C.515A.
2. Maximum hours of labor and overtime, as set forth in ORS 279C.520(1).
3. Employer notice to employees of hours and days that employees may be required to Work, as set forth in ORS 279C.520(2).
4. Contractor required payments for certain services related to sickness or injury, as set forth in ORS 279C.530.
5. Requirement for payment of prevailing rate of wage, as set forth in ORS 279C.830(1).

**B. Requirements for Specifications.** The Specifications for every Public Works Contract, consisting of the procurement package (such as the Project Manual, Bid or Proposal Booklets, Request for Quotations or similar Procurement Specifications), must contain the following provisions:

1. The state prevailing rate of wage, and, if applicable, the federal prevailing rate of wage, as required by ORS 279C.830(1)(a):
  - a. physically contained within or attached to hard copies of Procurement Specifications;
  - b. included by a statement incorporating the applicable wage rate publication in the Specifications by reference; or
  - c. when the rates are available electronically or by Internet access, the rates may be incorporated into the Specifications by referring to the rates and providing adequate information on how to access them.

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2. If both state and federal prevailing rates of wage apply, a requirement that the contractor shall pay the higher of the applicable state or federal prevailing rate of wage to all workers.

**5.34.950 City Payment for Unpaid Labor or Supplies.**

- A. Contract incomplete. If the Contract is still in force, the City may, in accordance with ORS 279C.515(1), pay a valid claim to the Person furnishing the labor or services, and charge the amount against payments due or to become due to the Contractor under the Contract. If the City chooses to make such a payment as provided in ORS 279C.515(1), the Contractor and the Contractor's surety shall not be relieved from liability for unpaid claims.
- B. Contract completed. If the Contract has been completed and all funds disbursed to the prime Contractor, all claims shall be referred to the Contractor's surety for resolution. The City shall not make payments to Subcontractors or suppliers for Work already paid for by the City.

**5.34.960 Records Maintenance; Right to Audit Records.**

(Amended by Ordinance No. 185898, effective February 20, 2013.)

- A. Contractors and Subcontractors shall maintain all fiscal records relating to a Contract executed with the City in accordance with generally accepted accounting principles. In addition, Contractors and Subcontractors shall maintain any other records necessary to clearly document:
  1. Their performance. Performance includes, but is not limited to, compliance with plans and Specifications, compliance with fair contracting and employment programs, compliance with Oregon law on payment of wages and accelerated payment provisions, and any and all requirements imposed on the Contractor or Subcontractor under the Contract or subcontract;
  2. Any claims arising from or relating to their performance under a Public Contract;
  3. Any cost and pricing data; and,
  4. Payment to suppliers and Subcontractors.
- B. Such records shall be maintained for a period of six years from the date of final completion of the Contract or until the conclusion of any audit, controversy or litigation arising out of or related to a Contract, whichever is longer, unless a shorter period of time is authorized in Writing by the City.
- C. Contractors and Subcontractors shall make all their records available to the City within the boundaries of the City of Portland, Oregon, at reasonable times and

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places regardless of whether litigation has been filed on any claims. If the records are not made available within the boundaries of the City, the Contractor or Subcontractor shall pay all costs for City employees, and any necessary consultants hired by the City, including travel, per diem costs, salary, and any other expenses incurred by City in sending its employees or consultants to examine, audit, inspect, and copy those records. If the Contractor elects to have such records outside these boundaries, the costs paid by the Contractor to the City for inspection, auditing, examining and copying those records are not recoverable costs in any legal proceeding.

- D.** The City and its Authorized Representatives shall be entitled to inspect, examine, copy and audit the books and records of any Contractor or Subcontractor upon request by the City for any reason, including any documents that may be placed in escrow according to any Contract requirements. The records that may be inspected and copied include financial documents of the Contractor, including tax returns and financial statements. The City will keep such documents confidential to the extent permitted by Oregon law, subject to Subsection 5.34.960 E. below.
- E.** Contractors and Subcontractors agree to disclose the records requested by the City and agree to their admission as evidence in any proceeding between the parties, including, but not limited to a court proceeding, arbitration, mediation or other alternative dispute resolution process.
- F.** In the event that the records disclose that the City is owed money or establishes that any portion of any claim made against the City is not warranted, the Contractor or Subcontractor shall pay all costs incurred by the City in conducting the audit and inspection. Such costs may be withheld from any sum due or that becomes due to the Contractor by the City.
- G.** Failure of the Contractor or Subcontractor to keep or disclose records as required may result in a finding that the Contractor or Subcontractor is not a Responsible Bidder or Proposer as provided in Subsection 5.34.610 B.

**5.34.970 Right to Inspect Plant or Place of Business.**

- A.** Time for Inspection. The City may, at reasonable times, inspect the part of the plant or place of business of a Contractor or any Subcontractor or supplier which is related to the performance of any Contract Awarded.
- B.** Access to Plant or Place of Business. As a condition of submitting an Offer, Offerors agree that representatives of the City may enter a Contractor's or Subcontractor's or supplier's plant, place of business, work site or construction site during normal business hours for the following purposes:

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1. To inspect and/or test supplies or services for acceptance by the City pursuant to the terms of the Bid or Proposal;
  2. To investigate in connection with an Offer's Offer, a minority business or EEO certification, or Offeror qualification.
  3. To inspect for compliance with City programs required by the Solicitation Document.
  4. To inspect for Contract compliance.
- C.** Contractual Provisions. Contracts may provide that the City may inspect supplies and services at the Contractor's or Subcontractor's or supplier's office or facility and perform tests to determine whether they conform to the Solicitation Document, or, after Award, to the Contract requirements, and are acceptable. Such inspections and tests shall be conducted in accordance with the terms of the Contract.
- D.** Procedures for Inspection, Trial Use and Testing. The City may establish operational procedures governing the inspection, testing and trial use of equipment, materials and the application of resulting information and data to Specifications or Procurements.
- E.** Conduct of Inspections and Tests:
1. Inspectors and testers. Inspections or tests shall be performed so as not to unduly delay the Work of the Contractor or Subcontractor. No change of any provision of the Specifications or the Contract may be required by the inspector or tester without Written authorization of the City, unless otherwise specified in the Solicitation Document. The presence or absence of an inspector or tester shall not relieve the Contractor or Subcontractor from any requirement of the Contract;
  2. Location. When an inspection is made in the plant or place of business of a Contractor or Subcontractor, such Contractor or Subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the inspector or tester;
  3. Time of inspection or testing. Inspection or testing of supplies and services performed at the plant or place of business of any Contractor or Subcontractor shall be performed at reasonable times during normal business hours.

**5.34.980 Contract Cancellation, Contractor Termination Procedures.**  
(Amended by Ordinance No. 185898, effective February 20, 2013.)

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- A.** Grounds for Cancellation or Termination. The City may, at its option, cancel a Contract or terminate the Contractor's performance, if cancellation or termination is in the best interest of the City; or, for any material violation of the provisions of the Contract. Such provisions generally include, but are not limited to:
1. Standard terms and conditions included in Contracts;
  2. Product or service Specifications;
  3. Delivery or completion requirements; or
  4. Contracted pricing and price escalation/de-escalation clauses.
- B.** The City and the Contractor may cancel the Contract at any time by mutual Written agreement.
- C.** Termination For Convenience.
1. Reasons for Termination. The City may, in its sole discretion, by a Written order or upon Written request from the Contractor, cancel the Contract or a portion thereof if any of the following occur:
    - a. The Contractor is prevented from completing the Work for reasons beyond the control of the City; or
    - b. The Contractor is prevented from completing the Work for reasons beyond the control of the Contractor; or
    - c. For any reason considered by the City to be in the public interest, other than a labor dispute or any third party judicial proceeding relating to the Work filed in regards to a labor dispute. These reasons may include, but are not limited to, non-availability of materials, phenomena of nature of catastrophic proportions or intensity, executive orders of the President related to national defense, congressional, state or local acts related to funding; or
    - d. Any third party judicial proceeding relating to the Work other than a suit or action filed in regards to a labor dispute; or
    - e. If the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of a public improvement.
- D.** Payment When Contract is Canceled. When the Contract, or any portion thereof, is canceled before completion of all items of Work in the Contract, payment shall be made, based on the Contract price, for the actual items of Work completed under

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the Contract, or by mutual agreement, for items of Work partially completed. No claim for loss of anticipated profits or overhead shall be allowed;

- E.** Responsibility for Completed Work if Contract Canceled. Cancellation of a Contract or a portion thereof shall not relieve the Contractor of responsibility for the Work completed, nor shall it relieve the surety of its obligation for any just claims arising from the Work performed.
  
- F.** Termination of the Contractor's Performance for Default.
  - 1.** Declaration of Default. The City may, after giving the Contractor and its surety seven (7) Days Written notice and an opportunity to cure deficient performance, terminate the Contractor's performance for any reasonable cause, including but not limited to those set forth in Subsections 5.34.980 F.1.a. to g. Upon such termination, the City may immediately take possession of the premises and of all materials, tools and appliances thereon as well as all other materials, whether on the premises or not, on which the Contractor has received partial payment. The City may finish the Work by whatever method it may deem expedient;
    - a.** If the Contractor should repeatedly refuse or fail to supply an adequate number of skilled workers or proper materials to carry on the Work as required by the Contract documents, or otherwise fail to pursue the Work in a timely manner; or
    - b.** If the Contractor should repeatedly fail to make prompt payment to Subcontractors or for material or labor; or
    - c.** If permitted by law, if the Contractor should voluntarily or involuntarily seek protection under the United States Bankruptcy Code and its Debtor in Possession or Trustee for the estate fails to assume the Contract within a reasonable time, or as provided by the Bankruptcy Court; or
    - d.** If the Contractor should make a general assignment for the benefit of the Contractor's creditors; or
    - e.** If a receiver should be appointed on account of the Contractor's insolvency; or
    - f.** If the Contractor is otherwise in material breach of any part of the Contract; or
    - g.** If the Contractor should disregard laws, rules, or the instructions of the City or its Authorized Representative.

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2. Required Response to Declaration of Default. If a default is declared and the Contractor's performance terminated, the Contractor or the surety shall provide the City with immediate and peaceful possession of all of the materials, tools and appliances located on the premises, as well as all other materials whether on the premises or not, on which the Contractor has received any progress payment. Further, the Contractor shall not be entitled to receive any further payment until the Work is completed. On the completion of the Work, the City shall determine the total amount of compensation the Contractor would have been entitled to receive for the Work, under the terms of the Contract, had the Contractor completed the Work. If the difference between this total amount and the sum of all amounts previously paid to the Contractor, (the unpaid balance) exceeds the expense incurred by the City in completing the Work, including expense for additional managerial and administrative services, such excess will be paid to the Contractor, with the consent of the surety;
  3. Expense of Completion. The expense incurred by the City shall be as determined and certified by the City;
- G.** Refusal to Perform. In addition to and apart from the above-mentioned right of the City to terminate the Contractor's performance, the Contract may be canceled by the City for any willful failure or refusal on the part of the Contractor and its surety to perform faithfully the Contract according to all of its terms and conditions; however, in such event neither the Contractor nor the surety shall be relieved from damages or losses suffered by the City on account of the Contractor's breach of Contract;
- H.** Remedies Cumulative. The City may, at its discretion, avail itself of any or all of the above rights or remedies and invoke anyone of the above rights or remedies without prejudice and without precluding the City from subsequently invoking any other right or remedy set forth above, or in the Contract, or available at law or in equity;
- I.** Notice. The City shall provide the Contractor Written notice of the grounds for Contract cancellation or Contractor termination and of its intention to cancel the Contract or terminate the Contractor's performance. If the Contractor provided a performance and payment bond, the surety shall also be provided with a copy of the notice of Contract cancellation or Contractor termination. The notice shall include:
1. The effective date of the intended cancellation or termination,
  2. The grounds for cancellation or termination, and

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- 3.** Notice of the amount of time (if any) in which the City shall permit the Contractor to correct the failure to perform.
- J.** The Contract documents may provide Contract cancellation or Contractor termination procedures that are different from, or in addition to, those provided in Section 5.34.980. If a Contract contains a cancellation or termination clause, that clause rather than Section 5.34.980 shall determine the respective rights and responsibilities of the parties in the event of cancellation or termination.



**CHAPTER 5.35 - COMMUNITY  
OPPORTUNITIES AND ENHANCEMENTS  
PROGRAM**

(Chapter added by Ordinance No. 190197, effective  
December 12, 2020.)

**Sections:**

- 5.35.010 Purpose.
- 5.35.020 Definitions.
- 5.35.030 Citizen Advisory Committee.
- 5.35.040 Effective Dates.
- 5.35.050 Dedication.
- 5.35.060 Administrative Rules.
- 5.35.070 Roles and Responsibilities.
- 5.35.080 Legislative Authority.

**5.35.010 Purpose.**

It is the purpose of this Chapter and the Policy of the City of Portland to set aside and dedicate 1 percent of the total Hard Construction Costs of City of Portland Public Improvement Contracts for the Community Opportunities and Enhancements Program (COEP).

COEP funds will be dedicated to the support of greater equity in public contracting through the provision of Business Technical Assistance for Certified Firms and Firms Seeking Certification and the recruitment, training and retention of a diverse Workforce.

Use of Bureau of Environmental Services and Portland Water Bureau ratepayer funds for the COEP shall be reasonably related to the provision of water and sewer services in accordance with the City of Portland Charter.

**5.35.020 Definitions.**

- A. Business Technical Assistance:** Those activities that provide business support and development services to increase the ability of the organization to bid on, perform and complete public services contracts.
  
- B. Certified Firms and Firms Seeking Certification:** Companies that have been certified, or which are actively pursuing certification, by the State of Oregon Certification Office for Business Inclusion and Diversity (COBID), or its successor, as a minority-owned, woman-owned, emerging or a service-disabled veteran owned business. The City recognizes the following certifications: Disadvantaged Business Enterprise (DBE), Minority-owned Business Enterprise (MBE), Women-owned Business Enterprise (WBE), Emerging Small Business Enterprise (ESB), and Service-Disabled-Veteran-owned Business Enterprise (SDVBE).

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- C. Community Benefits Agreement (CBA):** The CBA is applied to projects over \$25 million that use an alternative contracting method and is an agreement between the City of Portland (City), the Project Contractor (on behalf of all contractors and subcontractors of all tiers), the signatory unions, and the signatory community-based organizations with a strong record of accomplishment of serving racial and ethnic minorities, women and low income people and state approved pre-apprenticeship programs (CBOs).
- D. Community Equity and Inclusion Plan (CEIP):** A contractual document that is applied to all Public Improvement Contracts that utilize alternative contracting methods and have an estimated contract value between \$10 million to \$25 million. The CEIP addresses the historical disparities in contracting and provides a variety of strategies to increase opportunities for DBE/MBE/WBE/ESB/SDVBE firms and to increase opportunities and retention of a diverse Workforce.
- E. Community Equity and Inclusion Committee (CEIC):** The independent body that reviews the performance of City projects subject to a CEIP, provides guidance and advice to contractors to increase utilization, and advises the City on the Contractor's and Subcontractors' equity efforts to achieve the CEIP goals. The CEIC also advises the City on developing funding priorities for use of the COEP funding.
- F. COEP Fee:** The amount due, based upon 1 percent of the total Hard Construction Costs, as calculated using the methodology defined in Portland Policy Documents (PPD) Administrative Rule 1.25.
- G. Contractor:** A company with whom the City executes a contract for a Public Improvement.
- H. Hard Construction Costs:** The total original value of the Public Improvement Contract executed between the City of Portland and the Contractor.
- I. Labor-Management-Community Oversight Committee:** The Labor-Management-Community Oversight Committee discusses and advises on issues and/or concerns related to the implementation of Community Benefits Agreement.
- J. Participating Bureau:** A City of Portland Bureau that executes a Public Improvement Contract and which must contribute COEP Fees as required by this Chapter.
- K. Partners:** Organizations that will receive funding to implement the goals of the COEP.
- L. Public Improvement:** A project for construction, reconstruction or major renovation on real property by or for the City. Public Improvements do not include:

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1. Projects for which no funds of the City are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection, or
2. Emergency work, minor alterations, ordinary repair or maintenance necessary to preserve a Public Improvement.

**M. Public Improvement Contract:** A contract for a Public Improvement.

**N. Workforce:** The individuals in the construction trades, or who are seeking to join the construction trades, in trades that are typically utilized on Public Improvements.

**5.35.030 Citizen Advisory Committee.**

- A. The City's Chief Administrative Officer, in coordination with the City's Director of the Office of Equity and Human Rights (OEHR) and one director from a Participating Bureau, must establish and appoint the CEIC as an independent advisory committee to serve as a review body and a resource for the City, its Contractors and the broader community.
- B. The CEIC will be representative of the City's diverse communities and include community organizations, Certified Firms and non-COBID certified construction firms, building and contracting trades (union and non-union), trade associations and training providers for the construction trades.
- C. The CEIC will review compliance and performance of City Public Improvement Contracts subject to a CEIP and provide guidance and advice to contractors' and subcontractors' regarding their equity efforts to achieve the CEIP goals.
- D. The CEIC will also review projected Public Improvements and make recommendations to the Office of Management & Finance (OMF) and OEHR regarding how to generally prioritize the expenditure of COEP Fees on eligible activities, such as Business Technical Assistance and Workforce assistance.

**5.35.040 Effective Dates.**

The COEP is effective beginning July 1, 2020 and shall apply to Public Improvement Contracts executed after July 1, 2020.

**5.35.050 Dedication.**

- A. Participating Bureaus are required to budget the full anticipated cost of the COEP Fees in the fiscal year in which it is anticipated those COEP Fees will be due.
- B. The Office of Management and Finance (OMF) is required to budget the full cost of the COEP Fees backed and balanced against the COEP Fees budgeted by

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Participating Bureaus. OMF shall adopt administrative rules and procedures to implement this Section.

- C. Compliance with the payment requirements defined in the Administrative Rules is required for Public Improvement Contracts to proceed and for the costs of those projects to be capitalized at the end of the project.

**5.35.060 Administrative Rules.**

OMF shall, after consultation with OEHR and Participating Bureaus, develop Administrative Rules to:

- A. Provide for annual reporting to City Council on outcomes of the COEP;
- B. Provide a method for the appointment of representatives to the CEIC;
- C. Provide for the transactional process that Participating Bureaus need to follow to remit COEP Fees to OMF; and
- D. Set forth any other matter appropriate for the administration of this Chapter.

**5.35.070 Roles and Responsibilities.**

OMF and OEHR shall be the responsible parties for administering the COEP on behalf of the City in close coordination with the City Attorney's Office and Participating Bureaus. Notwithstanding the above, the Chief Administrative Officer, in consultation with City Council, the Participating Bureaus and the Director of OEHR, has exclusive decision-making authority over the COEP. OMF may, after consultation with City Council, Participating Bureaus, and OEHR, decide to partner with other organizations to implement the COEP. Partnerships with other organizations for implementation of the COEP shall be bound by contract or intergovernmental agreement.

**5.35.080 Legislative Authority.**

Nothing in this Chapter, or in any administrative rules adopted hereunder, shall limit the authority of the City Council to waive the requirements of this Chapter or related administrative rules.

**CHAPTER 5.36 - PROPERTY CONTROL**

**Sections:**

- 5.36.001 Surplus Property Policy.
- 5.36.010 Disposition of Surplus Property.
- 5.36.015 Disposition of Unclaimed Found Personal Property.
- 5.36.020 Sale of Buildings for Removal from City Property.
- 5.36.025 Purchase and Resale by the City of Tax-Foreclosed Property.
- 5.36.030 Loans of Personal Property Owned by City.
- 5.36.035 Lost or Stolen City Property.
- 5.36.040 Parking Meter Fund Equipment.
- 5.36.050 Use of City Automobiles for Transporting Firing Squads.
- 5.36.060 Use of Water Bureau Property by Bureau of Shops.
- 5.36.080 Zoological Specimens.
- 5.36.090 Gifts and Loans of Property.
- 5.36.100 Use of City Property for Elections.
- 5.36.110 Use of City Property for Air Quality Measuring Stations.

**5.36.001 Surplus Property Policy.**

(Replaced by Ordinance No. 179813, effective January 6, 2006.) It is the policy of the City to dispose of surplus property in the most efficient and cost-effective manner possible in accordance with the guidelines in this Chapter and any related administrative rules or policies. Temporary, full-time and part-time City employees, persons acting on the employee's behalf, and any business with which a City employee is associated, as defined by Chapter 5.33, may not purchase or receive surplus property unless offered for public sale.

**5.36.010 Disposition of Surplus Property.**

(Replaced by Ordinance No. 179813; Amended by Ordinance Nos. 181483, 187165 and 189452, effective May 10, 2019.)

**A. Definition:**

1. "Surplus Property" means: tangible personal property owned by the City, including equipment and materials, which is no longer needed by the City Bureau or Office that owns it. Examples include inventoried and non-inventoried office furniture, specialized equipment, and items that are obsolete or overstocked.

- B. City Capital Asset Disposal Documentation:** The bureau initiating the transfer, donation, sale, or disposal of surplus property that has been inventoried as a capital asset, shall comply with City Accounting Administrative Rules regarding disposal of capital assets, which establish minimum standards for the disposal of capital assets and subsequent reporting in the financial records.

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- C.** City Assets Procured with the Proceeds of Tax-Exempt Bonds: The bureau initiating the transfer, donation, sale, or disposal of surplus property that was procured with the proceeds of tax-exempt bonds should contact the City's debt management office prior to disposal of the property to determine what, if any, limitations exist on the disposal of such property and the use of any revenue derived from such disposal.
- D.** Usable Surplus Property: Whenever a Commissioner-In-Charge, or designee, determines that surplus property exists, the property may be disposed of in one of the following ways:
- 1.** Inter-Bureau Transfer or Sale - Surplus property may be transferred or sold to another City bureau upon written request from the director of the bureau that has a use for it.
  - 2.** Negotiated Direct Sale - Surplus property with an individual or aggregate current market value under \$5,000 may be sold as follows:
    - a.** The bureau obtains three written or verbal price quotations prior to final sale;
    - b.** The bureau negotiating the sale keeps written records of the price quotations, the amounts, and if necessary, the reason why three quotations could not be obtained;
    - c.** The bureau sells the surplus property to the highest bidder meeting all conditions of the sale; and
    - d.** The bureau applies the proceeds of the sale to its property disposition expenses in the following order: storage, transportation, publication fees and other costs of safekeeping and sale, and then to the City fund owning the property at the time of sale unless otherwise directed by the City Council.
  - 3.** Public Sale - The City Council may authorize the sale of surplus property through an external auction service. If the City does not have a contract with an external auction service, the bureau may conduct a public auction subject to the following conditions:
    - a.** The bureau shall give notice of such public auction at least once within ten days prior to the date of the auction in a newspaper of general circulation published in the City; such notice shall give the time and place of the auction;
    - b.** The bureau shall sell the surplus property to the highest bidder meeting all conditions of the sale; and



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- (4) The estimated market value of the surplus property at the time of donation.
- E.** Unusable Surplus Property: A Commissioner-In-Charge, or designee, may dispose of surplus property if it is determined that the surplus property is unusable, inoperable or not reasonably repairable, hazardous, or is of insufficient value to warrant a transfer, sale, or donation as prescribed in this Section. In addition to disposing of unusable property in accordance with existing federal, state, or local disposal regulations, every effort shall be made to recycle or otherwise dispose of property in an environmentally sound manner.
- F.** Exempt Property. The following surplus property, whether usable or unusable, shall not be transferred, donated, sold, or otherwise disposed of without Council approval or as otherwise provided by City code, policy, or procedure.
1. Vehicles or Vehicle Equipment.
  2. Corporately-Owned Communications Equipment.
  3. Contraband.
  4. Firearms.
  5. Intangibles.
  6. Hazardous items.
  7. Items of historical value.
  8. Any other item deemed appropriate for exemption from this Section by the Commissioner-In-Charge of the bureau that controls the property.
- G.** Vehicles and Vehicle Equipment: The Manager of OMF Business Operations Division is authorized to dispose of vehicles and related equipment when the vehicle is no longer needed by the City. The manner of disposal shall be the most efficient and cost-effective as determined by the Manager. This includes, but is not limited to, competitive written bids, public auction, negotiated sales, or exchange. Any and all revenue, less costs of sale, received from the sale of City-owned vehicles or vehicular equipment shall be credited to the replacement account for the originating bureau.
- H.** Corporately-Owned Communications Equipment: The Chief Technology Officer is authorized to dispose of corporately-owned communications equipment maintained by the Bureau of Technology Services when such equipment is no longer needed by the City. The manner of disposal shall be the most efficient and cost-effective as determined by the Director. This includes, but is not limited to,



competitive written bids, public auction, negotiated sales, or exchange. Any and all revenue, less costs of sale, received from the sale of corporately-owned communications equipment shall be credited to the replacement account for the originating bureau.

- I. Artificial Turf: The Chief Administrative Officer (CAO) is authorized to donate or arrange for recycling of artificial turf from City-owned spectator facilities when such turf no longer meets venue performance standards. The CAO shall comply with the provisions of this Section for all other means of disposing of the artificial turf.

**5.36.011 Donations of Surplus Personal Property.**

(Repealed by Ordinance No. 179813, effective January 6, 2006.)

**5.36.015 Disposition of Unclaimed and Found Personal Property.**

(Added by Ordinance No. 153293; amended by Ordinance No. 167825, effective June 22, 1994.)

- A. Unclaimed Property: Unless directed otherwise by State law or a specific provision of this Code, all tangible personal property not owned by the City, that is under the control of a bureau and not reclaimed after notice has been sent, by the bureau in possession, to all parties who reasonably appear to have an interest in such property, of their right to claim such property within a specified period of time, shall become the property of the City, designated as surplus property, and, shall be disposed of as provided by this Chapter.
- B. Found Property: All tangible personal property not owned by the City that is found by a bureau member and turned into the bureau, shall not become the property of the City until the requirements of the state law regarding the rights and duties of finders and owners of lost property are satisfied. After the requirements of State law are satisfied, found property shall be retained by the bureau which found it if the property is usable by the bureau. If the property is not usable by the bureau which found it, the bureau shall dispose of the property as surplus property as provided by this Chapter.

**5.36.020 Sale of Buildings for Removal from City Property.**

Whenever a Commissioner determines that a building or other structure assigned to a bureau under his control must be removed, he may authorize the Purchasing Agent to sell such building or other structure for removal by the purchaser. The Purchasing Agent shall use the method of sale which he finds most in the public interest. The Purchasing Agent shall specify terms and conditions of sale, except that such terms shall not include credit, and he shall fix the amount of bond or cash deposit to be given by the purchaser to guarantee removal of the building or structure and clearance of debris from the premises.

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**5.36.025 Purchase and Resale by the City of Tax-Foreclosed Property.**

(Added by Ordinance No. 162023; Amended by Ordinance Nos. 179813 and 181483, effective January 18, 2008.)

- A. The provisions of this Section apply to property which meets each of the following conditions:
  - 1. Property that has outstanding City liens;
  - 2. Property that has been foreclosed by a county for collection of delinquent taxes; and
  - 3. Property that has been purchased by a bidder at a county sheriff's sale.
- B. The OMF Business Operations Division may purchase and sell property described in this Section without public notice or sale provided:
  - 1. The Council adopts an ordinance authorizing the OMF Business Operations Division to purchase property. The ordinance shall include a legal property description; the total amount of outstanding taxes and costs; the total amount of outstanding city liens, accrued interest, penalties and costs; and the source of funds to be used to purchase the property;
  - 2. Property will be sold to the successful bidder at a county sheriff's sale; and
  - 3. The Council adopts an ordinance authorizing the property sale and setting forth sale terms. The ordinance shall include the name and address of the successful bidder at the county sheriff's sale and the terms of the City sale. The Council may adopt sale terms and provisions as a part of the ordinance authorizing the purchase of property.
- C. Sale contracts and other legal documents related to the sale shall be reviewed and approved by the City Attorney prior to the sale. Upon approval as to form by the City Attorney, the Mayor and City Auditor shall be authorized to sign a deed transferring title to the property.
- D. Proceeds from the sale shall be deposited in the City fund which incurred the expense of purchasing the property from the county unless otherwise directed by the Council in the ordinance authorizing the purchase and sale of the property.
- E. The OMF Business Operations Division is authorized to adopt administrative rules and procedures necessary to carry out the provisions of this Section.

**5.36.030 Loans of Personal Property Owned by the City.**

(Amended by Ordinance No. 180917, effective May 26, 2007.) Each Commissioner and each officer or employee of the City is and shall be hereby prohibited from loaning any

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personal property owned by the City to any other person either gratuitously or for a consideration, without the consent of the Council expressed by ordinance. However, in the event of extraordinary circumstances involving hazard to the general public occasioned by fire, flood, earthquake, or other public disaster, the Commissioner of any department may permit equipment in his department to be used without the consent of the Council during such extraordinary circumstances upon the written order of the Commissioner; provided that the Chief of Portland Fire & Rescue may lend or rent to the owner or operator of property damaged by fire, flood, earthquake or other public disaster such equipment of Portland Fire & Rescue as may be temporarily needed to prevent further damage to such property, and such owner or operator so borrowing or renting such equipment, shall agree with the City:

- A. To hold the City, its officers, agents and employees harmless for any loss or damage caused to the person or property of third persons while such equipment is in the possession of such owner or operator;
- B. To waive any claim for damage to the person or property of such owner or operator arising in whole or in part from the use of such equipment; and
- C. To return such equipment to Portland Fire & Rescue in as good condition as when received, reasonable wear and tear excepted. Such agreement shall be in writing on forms approved by the City Attorney and shall be filed with the Auditor of the City. Any rentals collected by Portland Fire & Rescue under such agreements shall be transmitted by Portland Fire & Rescue to the City Treasurer within 24 hours after receipt by the Bureau, the rentals to be credited to the General Fund.

**5.36.035 Lost or Stolen City Property.**

(Added by Ordinance No. 151849; effective June 25, 1981.) Any City employee charged with the care or having custody of any City property which is lost or stolen shall immediately, upon discovery that such property has been lost or stolen, report such loss or theft in writing to his bureau or division head. The bureau or division head shall upon receipt of such report, immediately notify the Accounting Division in writing of such loss or theft. The Accounting Division shall make such investigation and report and recommendation as may be deemed appropriate.

**5.36.040 Parking Meter Fund Equipment.**

All vehicles, equipment, and other things heretofore purchased or which may be purchased in the future from the Parking Meter Fund for the use of any bureau having service to perform in connection therewith, are and shall be assigned to the bureau where used. They shall be inventoried in connection with and as a part of the vehicles, articles, and equipment of such bureau.

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**5.36.050 Use of City Automobiles for Transporting Firing Squads.**

The Commissioner In Charge of any bureau or department having an automobile available shall have the authority to make use of the same in transporting firing squads for veteran's funerals.

**5.36.060 Use of Water Bureau Property by Bureau of Shops.**

The Bureau of Shops shall have the use of the following described property owned by the Bureau of Water:

Lots 1, 2, 3, 4, 10, 11, and the west 40.92 feet of Lot 14; also that portion of Lot 5 lying west of a line drawn from the southeast corner to the northwest corner of said Lot 5; also a portion of Woodward Avenue now vacated, more particularly described as follows:

Beginning at a point in the north line of Lot 14, Water Bureau Addition, said point being north 73 degrees 35'45" west a distance of 26.19 feet from the southeast corner of said Lot 5; thence north 73 degrees 35'45" west 29.91 feet; thence south 89 degrees 44'30" west 92.29 feet to the northwest corner of Lot 10; thence north 0 degrees 15'30" west 50 feet to the southwest corner of Lot 4; thence north 89 degrees 44'30" east 80 feet to the southeast corner of Lot 4; thence south 73 degrees 35'45" east 40 feet to the southeast corner of Lot 5; thence to the point of beginning, all in Water Bureau Addition, in the City of Portland, Multnomah County, State of Oregon, according to the duly recorded plat thereof on file in the office of the clerk of said county and state.

The General Fund shall pay to the Bureau of Water the sum of \$1 per year for the use of such property and the Bureau of Shops shall have the right to construct a building on such real property and maintain the same.

**5.36.070 Equipment Pool Rotary Account.**

(Repealed by Ordinance No. 182389, effective January 2, 2009.)

**5.36.080 Zoological Specimens.**

The Director of the City Zoo be, and he hereby is, invested with the authority to accept for and on behalf of the City such gifts and donations of zoological specimens hereafter tendered as in his judgment will be beneficial to the Zoo and of interest to the public; all such gifts and donations and the acceptance thereof to be in writing, signed by the giver or donor and by the Director of the Zoo, substantially as shown in Exhibit "A" hereto attached and by reference made a part hereof. The past actions of the Director as respects the authority herein given, are hereby ratified and adopted.

Exhibit "A"  
PORTLAND ZOOLOGICAL PARK  
Zoological Specimen Release

IN CONSIDERATION OF THE CITY'S ACCEPTANCE OF THE SPECIMEN HEREIN DESCRIBED, I HEREBY GIVE AND DONATE TO THE CITY OF PORTLAND, FOR THE PURPOSES OF THE MUNICIPAL ZOO, THE FOLLOWING ANIMAL:

Species. . . . . Sex. . . . . Age. . . . .  
Physical Condition . . . . .

How Long in Possession . . . . .  
Where Obtained . . . . .  
. . . . .  
Special Remarks. . . . .  
. . . . .  
. . . . .

AND I HEREBY RELINQUISH ALL CLAIM TO SAID SPECIMEN AND/OR ITS PROGENY:

Signed . . . . .  
Address . . . . .  
Date . . . . .  
Accepted for the Zoo by:  
Signed . . . . .  
Date . . . . .  
Object Number . . . . .

**5.36.090 Gifts and Loans of Property.**

- A. Whenever any real or personal property or the use thereof shall be offered to the City by way of donation, gift, grant, lease, loan or any other manner made available to the City by any person, firm, or corporation for the purpose of bestowing a gift or benefit upon the City, the Mayor hereby is authorized to accept any and all such real or personal property or the use thereof. The Mayor also hereby is authorized to execute any necessary agreement or document and to agree to any reasonable terms and conditions for the gift, grant, lease, loan or other use of such real or personal property. Provided, however, that any such grant, lease or loan by which the City shall be obligated in an amount exceeding \$250 shall first be approved by the Council by special ordinance.
- B. It shall be the duty of all bureau chiefs to promptly report to the Commissioner In Charge, the receipt of any gift, contribution, donation or other use of personal property from any person, firm or corporation for and on behalf of the City so that the Commissioner may cause such property to be promptly included in the City inventory.

**5.36.100 Use of City Property for Elections.**

The Commissioner In Charge of any property or premises of the City hereby is authorized to permit the use of such premises or facilities as polling places for any election held by the State, county or any municipal corporation.

**5.36.110 Use of City Property for Air Quality Measuring Stations.**

The Commissioner In Charge of any particular parcel of real property owned by the City is hereby authorized to grant permission in writing to any governmental body to install on said real property on a temporary basis an air quality measuring station; provided, however,

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that no such written permission shall be granted unless and until the requesting governmental body has stated in writing that the temporary installation will be accomplished without injury or damage to the City property and that said governmental body will reimburse City for all costs or expenses to City incident to the installation.

**5.36.115 Designation of “Persons In Charge” for Purposes of Excluding Persons From City Property.**

(Repealed by Ordinance No. 188280, effective April 14, 2017.)

**CHAPTER 5.40 - DEMANDS AND  
DISBURSEMENTS**

**Sections:**

- 5.40.010 Drawing Checks in Payments of Claims.
- 5.40.020 Certain Demands to be Submitted to Council.
- 5.40.030 Appropriation to be Charged for All Demands.
- 5.40.040 Requisitions Required.
- 5.40.070 Funds Held for Benefit of Police Contributions Committee.
- 5.40.080 Requisition of Funds for Purchasing Police Evidence.

**5.40.010 Drawing Checks in Payments of Claims.**

(Amended by Ordinance Nos. 139226, 173369 and 189452, effective May 10, 2019.) The Accounting Division on behalf of the Mayor and the Auditor shall have the authority to draw checks on City funds upon approved requisition, duly executed contract, or order of the Council when the Accounting Division has determined that payment is legally due and payable.

**5.40.020 Certain Demands to be Submitted to Council.**

(Amended by Ordinance Nos. 173369 and 189452, effective May 10, 2019.) All demands for expenses of litigation, damages, relief and other demands of like character, except as hereinafter provided, shall be examined by the Accounting Division and submitted to the Council with any recommendations, explanations or information the Accounting Division may deem pertinent thereto. When the demands are approved by the Council, checks shall be drawn in payment thereof.

**5.40.030 Appropriation to be Charged for All Demands.**

(Amended by the Ordinance No. 189452, effective May 10, 2019.) The Accounting Division hereby is directed to charge all demands for the furnishing of supplies, materials, equipment, etc. to appropriations therefor.

**5.40.040 Requisitions Required.**

(Amended by the Ordinance No. 189452, effective May 10, 2019.) Before any obligation is incurred under the provisions of this Chapter, except emergency purchases as provided in Section 5.32.030 and except specific payments directed by the Council, a requisition properly signed shall be presented to the Accounting Division in order that the Accounting Division may determine that the proposed expenditure is budgeted and that appropriation is available therefor. Each requisition shall state in detail the articles or services to be purchased and appropriation accounts proposed to be charged.

**5.40.050 Payment of the City's Contribution to the Public Employees Retirement Board and the State Industrial Accident Commission.**

(Repealed by Ordinance No. 139226, effective January 20, 1975.)

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**5.40.070 Funds Held for Benefit of Police Contributions Committee.**

No money held by the City Treasurer in the Trustee Fund for the benefit of Police Contributions Committee shall be disbursed by him except on written request of the Chief of Police who shall first be advised in writing by the Secretary of the Affirmative Action of the above-named Committee to pay a sum certain to a particular named donee. The Treasurer shall, not later than January 15th of each year, furnish to the Chief of Police a statement showing the amounts received by him for the benefit of the Police Contributions Committee and the amounts paid out by him, if any, and to whom paid. The Chief of Police shall immediately advise the Committee of the contents of the report of the City Treasurer. The Committee shall, not later than January 31st of each year, advise each donor as to the portion of his donation that is tax deductible.

**5.40.080 Requisition of Funds for Purchasing Police Evidence.**

The Chief of Police is hereby authorized to requisition funds in advance of expenditure for the purchase of evidence against the illegal sale of liquor, gambling or other violations of laws. Each advancement shall be on a memorandum requisition approved by the Commissioner In Charge of the Bureau of Police and charged to the appropriation of the Bureau of Police for evidence procurement. The requisition shall be accompanied by an affidavit signed by the Chief of Police which shall state that the amount of cash to be advanced will be used only for the purpose of evidence against the illegal sale of liquor, gambling or other violations of laws. There shall be no further formal accountability for such funds beyond the affidavit. However, the Chief of Police shall maintain sufficient confidential records to be able to provide a confidential accounting to the Commissioner In Charge on his request.



**CHAPTER 5.44 - EXECUTION OF  
CONTRACTS AND BONDS**

(Chapter repealed by Ordinance Nos. 174509 and  
174904, effective January 1, 2001.)

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**CHAPTER 5.48 - CHARGES FOR SERVICES  
PERFORMED**

**Sections:**

- 5.48.010 Authorization.
- 5.48.020 Application and Deposit.
- 5.48.030 Accounting Procedure.
- 5.48.035 Bureau of Emergency Communications - Recordings - Rates.
- 5.48.036 Office of City Attorney and OMF Risk Management Division - Records - Rates.
- 5.48.040 Collection of Money Due the City.
- 5.48.050 Improvements Without Assessment.
- 5.48.060 Interdepartmental Services Authorized.
- 5.48.070 Accounting Procedure for Interdepartmental Services.

**5.48.010 Authorization.**

Each Commissioner shall have authority to direct his subordinate employees to perform duly authorized services for private persons or other governmental agencies for all of which services a reasonable charge shall be made as provided in Section 5.48.030.

**5.48.020 Application and Deposit.**

Before any department or bureau of the City shall perform any service for a private person or other governmental agency, it shall be the duty of the department or bureau to obtain wherever practicable an application in writing requesting such service. A deposit may be required when in the judgment of the head of the department or bureau it shall be deemed necessary to guarantee the payment of the service to be performed. The application shall be retained by the department or bureau performing such services.

**5.48.030 Accounting Procedure.**

(Amended by Ordinance Nos. 132116, 137528, 138042 and 182377, effective December 26, 2008.) Unless the charge for services performed for private persons or governmental agencies other than the City is specifically fixed by the Charter or by action of the Council, all such services shall be charged for on the basis of actual costs, which shall be computed as follows:

**A. Labor.**

**1. The amount for salaries and wages shall be either:**

- a.** Actual time computed at the applicable hourly payroll rate when the services being provided require less than the full time of an employee on an annual basis, or
- b.** Annual salary including vacation, sick leave, holiday and other leave with pay when the services being provided require the full time of an employee on an annual basis.

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2. To the amount for salaries and wages computed under paragraph A.1.a. above, add for the indirect cost of vacation, sick leave, holiday and other leave with pay and for the cost of disability, retirement and insurance as follows:
    - a. For other than sworn police personnel add 39 percent of salaries and wages.
    - b. For sworn police personnel add 42 percent of salaries and wages for labor provided at straight time. Add only 15 percent for labor provided at overtime rates.
  3. To the amount for salaries and wages computed under paragraph A.1.b. above, add only for disability, retirement and insurance as follows:
    - a. For other than sworn police personnel add 21 percent of salaries and wages.
    - b. For sworn police personnel add 23 percent of salaries and wages provided at straight time only.
- B.** Materials consumed shall be at actual cost including delivery to the City. The Bureau of Water Works shall charge an additional 5 percent for stock handling.
- C.** Services from other City bureaus shall be at actual cost determined in accordance with Section 5.48.070.
- D.** Services provided from non-City sources shall be at actual cost to the City.
- E.** Motorized equipment, trailers, etc., shall be actual time at rates for each particular class of equipment established by the Commissioner In Charge.

**5.48.035 Bureau of Emergency Communications-Recordings-Rates.**

(Added by Ordinance No. 143377; effective March 30, 1977.) The Bureau of Emergency Communications is authorized to charge the following rates or the rate established by a court in a particular case for services rendered in locating and delivering particular segments of tape recordings for court use:

- A.** Labor.
1. Ten dollars per hour (straight time) for staff time expended for salaries and wages. After FY 1976-77 this rate shall be set equal to the 4-year rate for a police sergeant as approved in the official compensation plan of the City of Portland.

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2. Plus 42 percent of the foregoing straight time amount or 15 percent of the foregoing for labor provided at overtime rates for indirect costs for the vacation, sick leave, holiday and leave with pay, and for the cost of disability, retirement and insurance.

**B. Material Costs.**

1. In addition to the foregoing amount, there shall be charged for material costs, \$6.22 per hour for the time City's recording equipment is in use.

**C. General Overhead.**

1. To the total of the above there shall be added 10 percent for general overhead.

**5.48.036 Office of City Attorney and OMF Risk Management Division - Records - Rates.**

(Added by Ordinance No. 151447; Amended by Ordinance No. 181483, effective January 18, 2008.) In making public records available for inspection by members of the public and in providing the members of the public with copies thereof, the office of City Attorney and the OMF Risk Management Division shall charge therefor on the basis of actual costs of making available and copying the records, as set out in Section 5.48.030. This Section shall not apply to those cases in which the charge would be \$5 or less, in which cases the charge shall be the amount set out in Section 5.60.020.

**5.48.040 Collection of Money Due the City.**

(Amended by Ordinance Nos. 147159, 149198, 165955, 181483 and 189413; effective March 6, 2019.) The Office of Management and Finance of the City shall bill for all services performed for other persons by the City and for all City accounts receivable, contracts receivable and grants receivable except for bills and statements regularly sent by the Bureau of Water Works, the City Treasurer, the OMF Risk Management Division, the Revenue Division and payments made under leases managed by the OMF Business Operations Division.

It shall be the duty of the officers of various departments, bureaus and divisions of the City to furnish the Office of Management and Finance, daily, a list or journal of all charges that are to be billed, together with supporting data.

If payment of a City bill sent by the Office of Management and Finance is not received within 30 days after the date of billing, it shall be delinquent. It shall be the duty of the Office of Management and Finance to pursue collection of these delinquent accounts using appropriate collection methods. When collection efforts do not result in payment, invoices will be forwarded to the City Attorney for collection, or in appropriate cases to the Revenue Division to submit to the Council an ordinance assessing the unpaid bill upon property chargeable therewith. The Director of the Bureau of Administrative Services may select delinquent accounts to refer to a collection agency if the director deems such referral appropriate.

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Interest of 1 percent per month shall be charged on all bills which remain unpaid for 30 days or more after the invoice billing date. Interest shall be computed from the invoice date and compounded monthly.

The Director of the Bureau of Administrative Services may add a rebill charge to delinquent accounts. The rebill charge shall be the greater of \$5.00 or 25 percent of the amount which is delinquent, up to a maximum charge of \$25.00. The rebill charge may be reassessed every 60 days, until the account is paid, assessed, canceled or waived.

The Director of the Bureau of Administrative Services may offer an early payment incentive discount of up to 2 percent on any or all invoices paid within 10 days of the billing date.

**5.48.050 Improvements Without Assessment.**

(Amended by Ordinance Nos. 144020 and 189413, effective March 6, 2019.)

**A.** Whenever the City is requested to construct an improvement without using assessment procedures, and the improvement is to be constructed under contract in the name of the City, the person or agency submitting the request shall make an advance deposit into the Trustee Fund to protect the City against loss on account of obligations to be assumed in connection with the improvement. The advance deposit shall cover the following items:

1. Estimated amount of the contract for the improvement;
2. A fee for engineering and superintending equal to the engineer's estimate of the cost of providing such services. Use accounting procedure 5.48.030.
3. Overhead of City in advertising for bids, preparing the contract, disbursing funds, etc., at 1/2 percent of the estimated contract amount with a minimum of \$100.

Additional deposits may be required by the Commissioner In Charge at any time he may deem necessary to protect the City.

**B.** Advertising for bids and executing contract shall be authorized only by the City Council. In no event shall a contract be awarded for more than 93 percent of the funds on deposit.

**C.** The deposited funds shall be disbursed by the City Treasurer on order of the Commissioner In Charge of the improvement project and after approval by the Revenue Division. Disbursements shall be made as follows:

1. Contract payments shall be paid directly to the contractor;
2. Engineering fees and overhead shall be paid to the appropriate fund as revenue after the final cost of the contract has been determined.

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3. Prior to the issuance of the certificate of completion by the City Engineer the fees charged to the permittee will be adjusted to agree with the actual costs of services as recorded by the City Engineer. The remaining balance, if any, after payment of all costs shall be returned to the permittee. If additional funds are required of the permittee, they shall be paid prior to the issuance of the certificate of completion.

**5.48.060 Interdepartmental Services Authorized.**

(Amended by Ordinance No. 182377, effective December 26, 2008.) Each Commissioner shall have power and authority, in the direction of activities of their department, to use the officers, employees, material, and equipment in different bureaus or divisions of such department whenever in their judgment the most efficient and economical administration of the affairs of their department requires. Each Commissioner shall also have authority to direct their subordinate employees to perform duly authorized services for other bureaus or departments. The appropriations carrying the cost of such services shall be reimbursed by calculating the cost of such services.

**5.48.070 Accounting Procedure for Interdepartmental Services.**

(Amended by Ordinance No. 182377, effective December 26, 2008.) Unless a specific charge for interdepartmental services is fixed, reduced or waived by the Council, through ordinance or policy, all such services shall be charged on the same basis as work performed for private persons as provided in Section 5.48.030, except that stock handling costs under Subsection 5.48.030 B. shall not be added.

**CHAPTER 5.50 - COLLECTIONS SECTION**

(Chapter added by Ordinance No. 147159, effective  
February 1, 1979.)

**Sections:**

- 5.50.010 Collections Section.
- 5.50.020 Compromise Authorization.
- 5.50.030 Money Collected.

**5.50.010 Collections Section.**

(Amended by Ordinance No. 181483, effective January 18, 2008.)

- A. A Collections Section shall be established within the OMF Risk Management Division. This Section shall be responsible for the investigation, billing, collection and compromise of accounts receivable generated by losses suffered by the City including, but not limited to, vehicle accidents, street light and traffic accidents, property damage for vandalism or negligence and theft, and claims by the City for services rendered without a formal contract including, but not limited to property board ups, but not any claim for which the City may impose a lien. If necessary, the Collections Section may assign individual accounts to outside collection agencies. This Section shall also be responsible for gathering cumulative data necessary for establishing methods to remove or reduce the causes of such losses in the future.
- B. The bureau sustaining the loss or damage shall send a report to the Collections Section within 2 working days from the date of loss or damage. The bureau shall supply all information relating to the loss to the Collections Section and shall cooperate with and assist the Collections Section in the investigation and collection of such loss or damage.
- C. The Collections Section shall recommend that the City Attorney institute suit in appropriate cases. The City Attorney shall institute legal proceedings for the City in any court or tribunal upon direction of the Council or with the approval of the Commissioner of Finance and Administration and for good cause shown.
- D. Nothing in this Chapter shall be applicable to accounts receivable arising under any contract.

**5.50.020 Compromise Authorization.**

The Collections Section with the approval of the Commissioner of Finance and Administration is authorized and directed to effect compromises in all cases where in the judgment of the collections Section, substantial justice can thus be achieved. These compromises are authorized in all cases involving an original claim of \$5,000 or less.

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Where the amount of the original claim is greater than \$5,000 but less than \$10,000, the Collections Section with the approval of the Commissioner of Finance and Administration is authorized to accept compromises which provide for payment to the City of not less than 50 percent of the amount of the original claim. Where the amount of the original claim is greater than \$10,000, the Collections Section with the approval of the Commissioner of Finance and Administration is authorized to effect compromises which provide for payment to the City of not less than 75 percent of the original claim. Where the amount of the original claim is greater than \$5,000, lesser amounts than herein specified may be accepted in compromise only with Council approval. The Collections Section with the approval of the Commissioner of Finance and Administration is authorized to cancel accounts receivable invoices of under \$5,000 in amount or accept promissory notes or confessions of judgment where in the judgment of the Collections Section, substantial justice can thus be achieved.

All compromises shall be in writing utilizing forms approved by the City Attorney.

**5.50.030 Money Collected.**

All monies collected by the Collections Section will be credited to the appropriate City fund less a service charge of 15 percent for all claims for damages to its property against any third party tort-feasors arising out of an accident or incident. A 25 percent service charge will be required if necessary to assign to an outside collection agency. This service charge will be credited to the Insurance and Claims Fund. Financial records of amounts recovered will be cumulated and maintained by the Collections Section indicating the bureau and fund for which such amounts are recovered.



**CHAPTER 5.52 - PETTY CASH AND CHECKS**

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

**Sections:**

- 5.52.010 Petty Cash and Change Accounts.
- 5.52.020 Cancellation of Checks and Issue of in Lieu Checks.
- 5.52.030 Cancellation of City Assessments on Mortgage records.
- 5.52.040 When Checks Are to Be Canceled.
- 5.52.050 Drawing Checks on Charter Appropriations.

**5.52.010 Petty Cash and Change Accounts.**

(Amended by Ordinance Nos. 135063, 138943, 141163, 146673, 152320, 162106; 169321 and 177676, effective July 9 2003.)

- A.** Council by ordinance has authorized various offices of the City government to have petty cash and change funds. The Chief Administrative Officer shall approve establishment, closure, and administer changes to these funds, effective July 9, 2003. Petty cash accounts shall be for incidental expenditures and change cash accounts shall be for the purpose of making change at authorized locations and activities.
- B.** The amount of each purchase from petty cash accounts shall not exceed \$100 unless approved in writing by the Bureau Manager.
- C.** A petty cash account exceeding \$1,000 may be maintained as a checking account designated "City of Portland, Bureau of \_\_\_\_\_, (Title of Account.)" Such accounts shall be the responsibility of the individual bureaus/agencies, which will:
  - 1.** Authorize in writing three signatures for each account.
  - 2.** Require two signatures on each check.
  - 3.** Establish a dollar limit for each check.
  - 4.** Establish a control system for the account.
  - 5.** Provide for audit procedures.

The City Treasurer shall provide technical assistance to the bureaus/agencies in the establishment of such accounts.

- D.** Reimbursement from petty cash accounts may be made to employees for the purchase of safety shoes and/or rain gear as provided in labor contracts with the

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City. Such reimbursements for these specific purchases shall be restricted to the \$100 limitation for petty cash purposes.

**5.52.020 Cancellation of Checks and Issue of in Lieu Checks.**

(Amended by Ordinance Nos. 173369 and 189452, effective May 10, 2019). The Accounting Division on behalf of the Mayor and Auditor shall have the authority to cancel any City check issued for the payment of money and to issue in lieu thereof one or more checks; provided, that in lieu checks shall be drawn against the same fund and shall not exceed in the aggregate the amount of the check cancelled; and provided further, that such in lieu checks shall state on the face thereof the numbers and date of the check in lieu of which they are issued. In the event that a check is claimed to have been lost, stolen, or destroyed the payee or holder shall promptly give notice to the City Treasurer to stop payment and file with the Accounting Division a request for a new check which shall include a statement of facts concerning the claimed loss, theft or destruction of the check. The Accounting Division on behalf of Mayor and the Auditor shall have the authority to issue a new check in place of the lost check; provided, however, that before delivery of the substitute check, the Accounting Division shall require from the payee a document relieving the City, its officers and employees from all harm in connection with the drawing and delivery of the substitute check, which document shall be approved as to form by the City Attorney.

**5.52.030 Cancellation of City assessments on Mortgage Records.**

(Amended by Ordinance No. 189413, effective March 6, 2019.) The Revenue Division is hereby authorized and empowered to cancel when paid, any and all assessments which have been or may be entered in the mortgage records for the cost of constructing sewers, drains, and all works necessary therefor by the City. Such cancellations may be made by endorsing a cancellation on the margin of the record as in case of release of mortgage or by executing and acknowledging a formal instrument of cancellation. Such cancellation shall be made only where payment has been duly received by the City Treasurer and duplicate copy of the receipt for such payment has been presented to the Revenue Division.

**5.52.040 When Checks Are to Be Canceled.**

(Amended by Ordinance Nos. 173369 and 189452, effective May 10, 2019.) At the close of each fiscal year the Accounting Division is hereby authorized and directed to cancel all checks the date of which shall be in excess of 6 years prior to the time of such cancellation.

**5.52.050 Drawing Checks on Charter Appropriations.**

(Amended by Ordinance Nos. 173369 and 189452, effective May 10, 2019.) The Accounting Division on behalf of the Mayor and the Auditor shall draw checks on the appropriations provided for by Section 2-108 and Section 2-105 (a)(14) of the Charter when a memorandum requisition for funds has been submitted to the Accounting Division, which has been signed personally by the Commissioner of Finance and Administration. The proceeds from the checks shall be held by the Commissioner of Finance and Administration for disbursement.

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**5.52.060      Establishing Checking Account and Providing for Payment of Certain Refunds by Check.**

(Repealed by Ordinance No. 177676, effective July 9, 2003.)

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**CHAPTER 5.56 - AMBULANCE SERVICE**

**Sections:**

- 5.56.010 Police Radio Dispatch Service.
- 5.56.020 Acceptance by Ambulance Companies.

**5.56.010 Police Radio Dispatch Service.**

In order to prevent a duplication or multiplicity of ambulance service at the scene of any emergency or disaster, the Bureau of Police Radio Dispatcher will notify by direct phone furnished by the ambulance operator, the ambulance nearest the emergency or disaster scene. In consideration for the emergency dispatching service herein provided for, the private ambulance operators shall pay to the City the sum of \$600 per month. Each ambulance operator shall pay monthly a sum equal to \$600 divided by the number of ambulance companies participating in the dispatching service.

All monies due the City by the terms of this Section shall be paid by the 10th day of the month following the month in which dispatching service was furnished. All such money received by the City shall be credited to the General Fund Revenue Account, police charges, Code 432.

**5.56.020 Acceptance by Ambulance Companies.**

No monies shall be paid out or received by the City under the authority contained in this Chapter until the ambulance company requesting payment from the City or offering payment to the City shall have executed an acceptance of the terms of this Chapter in writing in form approved by the City Attorney.

**CHAPTER 5.60 - MISCELLANEOUS  
CHARGES**

**Sections:**

- 5.60.010 Charges For Architectural Services.
- 5.60.040 Employee Lists Furnished by Accounting Division Manager.
- 5.60.050 Licensees' Lists Furnished by License Bureau.
- 5.60.110 Driving City Cars to and from Work
- 5.60.120 Lien Accounting System Access.

**5.60.010 Charges For Architectural Services.**

(Replaced by Ordinance No. 136092; effective March 1, 1973.) Services performed by the Bureau of Architectural Planning for a service financed from a City fund other than the General Fund or by another governmental agency shall be charged for at the rate of 165 percent of the salary rates of the individuals working on the project. Services which are to be provided shall be undertaken only on approval of the Commissioner In Charge. Services to be charged for shall be authorized only after it has been determined that funds are available for payment.

**5.60.020 Public Records Copy Charges.**

(Repealed by Ordinance No. 156910, effective December 26, 1984.)

**5.60.040 Employee Lists Furnished by the Accounting Division Manager.**

(Amended by Ordinance No. 155770, effective April 4, 1984.)

- A. Upon written application, the Accounting Division Manager may furnish to any applicant a list of names of City employees.
- B. The Accounting Division Manager may charge a fee for providing such information with such fee determined by the Accounting Division Manager to be reasonable and approximating the cost to the City of providing the information.
- C. The information provided by the Accounting Division Manager pursuant to this Section shall be limited to names of employees only, and shall not include addresses, or phone numbers.
- D. This Section is not intended to prevent, nor is it related to, the verification of personal information provided voluntarily by employees to others.

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**5.60.050 Licensees' Lists Furnished by License Bureau.**

Upon written application accompanied by the fee hereinafter set out, the Bureau of Licenses may furnish to any applicant a list of licensees. The fee for such list shall be as follows:

- A.** For any list containing the names of not more than 15,000 licensees, the fee shall be \$250;
- B.** For any list containing the names of more than 15,000 licensees, the fee shall be in addition to the above, \$1 for each 100 names or fraction thereof.

No list of names of licensees shall be furnished to any person not a City employee without the prior approval of the City Licenses Director.

**5.60.110 Driving City Cars to and from Work.**

(Amended by Ordinance Nos. 141835, 142504, 154639, 157641; 168313, 173369, and 176872, effective August 28, 2002.)

- A.** Employees authorized to drive City vehicles to and from their place of residence shall pay to the City a rental charge for each accounting period of use.

If there is more than one City employee commuting in the same vehicle, the charge to the passenger will be equal to that of the driver. It shall be the responsibility of bureaus to report to the Accounting Division vehicles used as commuting vehicles.

Payroll deductions for rental charges shall be made from the employee's second payroll check of the month. Submission of the Personal Use of City Vehicle form is required upon vehicle assignment, cancellation, or when reduction is requested by Friday of the payroll submission week.

- B.** Credit will be given when total consecutive working days of nonuse exceed working days.
- C.** Requests for authorization to drive City vehicles to and from work must be approved by the employee's bureau manager and the employee's Commissioner In Charge.

**5.60.120 Lien Accounting System Access.**

(Added by Ordinance No. 159619; amended by Ordinance Nos. 176577 and 189413, effective March 6, 2019.) Access to the City's automated Lien Accounting System shall be provided by internet access. Fees for use of the System by internet will be assessed on a per search basis. The Revenue Division shall set the fee per search and the fee may be adjusted annually. Agencies and individuals not affiliated with the City of Portland shall be billed monthly for searches on the System.

**CHAPTER 5.64 - MISCELLANEOUS FISCAL  
PROVISIONS**

**Sections:**

- 5.64.010 Fiscal Agency in New York City.
- 5.64.020 Appointment of Deputy Auditors.
- 5.64.030 Treasurer to Cash Credit Union Checks.
- 5.64.040 Bureau of Water Works Accounts.
- 5.64.050 Execution of Releases from Claims for Damages.
- 5.64.060 Cancellation of Refund Checks.
- 5.64.070 Refunds.
- 5.64.090 Investment of Available Funds.
- 5.64.100 Determination of City's Subrogation for Time Loss Payments.
- 5.64.110 Procedure upon Obtaining Real Property with Outstanding Liens, Assessments or Accumulated Interest.

**5.64.010 Fiscal Agency in New York City.**

The National Bank of New York, New York City, State of New York, shall be the fiscal agency in New York City for the City.

**5.64.020 Appointment of Deputy Auditors.**

The Auditor of the City shall have the authority to appoint as his deputies with power to act for and in his behalf any and all persons employed in the Office of the Auditor of the City. The authority hereby conferred shall in no way affect the classifications or salaries of employees so appointed, the authority being conferred merely for the purpose of facilitating the transactions of business in the office of the City Auditor.

**5.64.030 Treasurer to Cash Credit Union Checks.**

The City Treasurer is hereby authorized and directed to accept and cash checks properly drawn by the City Employees' Credit Union, signed by the Treasurer and countersigned by the President and Vice President. It shall be the duty of the Secretary of the City Employees' Credit Union to file with the City Treasurer annually at the time of election of officers of the credit union a certificate showing the name of the President, Vice-president and Treasurer of the Credit Union. In the event any change is made in the organization of the Credit Union whereby any other officers or individuals are authorized to sign or countersign checks, the same shall be immediately transmitted to the City Treasurer by the Secretary by the filing with the City Treasurer of a certificate so stating. In the event any change in officers is made at any time during the year the same shall be immediately transmitted to the City Treasurer in like manner.

**5.64.040 Bureau of Water Works Accounts.**

The Auditor of the City is hereby directed to exercise the same supervision and authority over the accounts and financial affairs of the Bureau of Water Works as he is authorized, directed, and required by the Charter and ordinances of the City to exercise over other bureaus.

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**5.64.050 Execution of Releases from Claims for Damages.**

The City Treasurer, or Deputy Treasurer, in the absence or inability to serve of the City Treasurer, is hereby authorized upon receiving payment in full of claims for damages, to execute and deliver on behalf of the City a formal release and discharge of and from any further liability upon such claim; provided, that such release be first approved by the City Attorney.

**5.64.060 Cancellation of Refund checks.**

The City Treasurer shall cancel outstanding refund checks after 6 years. The amount represented by such checks shall be transferred from the refund account to the General Fund. In order that persons having refunds due which are represented by outstanding refund checks may not be precluded from establishing their right to such refund in the future, any person entitled to a refund, for which refund a check has been issued and has not been presented for payment within 6 years, and which refund has been canceled under the provisions of this Section, may petition the Council at any time for the allowance of such refund. The Council may after hearing upon such claim allow and pay the amount of such refund from the General Fund. Such payment however shall be made only by ordinance.

**5.64.070 Refunds.**

(Amended by Ordinance Nos. 173369 and 189452, effective May 10, 2019.)

- A. The Accounting Division on behalf of the Mayor and Auditor is authorized to draw checks making refunds for any purpose except as provided in Subsection B below. A check may be drawn when a properly signed memorandum requisition is presented which contains a statement showing the necessity for the refund and the amount thereof, or which is supported by such statement. The statement shall bear the approval of the bureau head responsible for determining the amount of refund, who shall initiate the necessary requisition. A refund in any amount may be paid from petty cash if funds are available and if the required statement is submitted.
- B. The Mayor and Auditor are authorized to draw checks for the refund of assessments paid in error after such refunds have been properly recorded in the Auditor's refund register, provided that no refund shall be made on account of assessments paid where the description of property assessed is found to be erroneous unless such refund is first authorized by Council.
- C. A refund shall be charged against appropriations if the amount to be refunded was previously credited to a budgetary fund. It shall be charged to the fund receipts previously credited if the amount to be refunded was credited to a nonbudgetary account.

**5.64.090 Investment of Available Funds.**

(Corrected under authority of PCC Section 1.01.035 on May 15, 2017.) The City Treasurer hereby is authorized to invest any uninvested surplus balance to the credit of the General



Fund or any sinking fund or special fund in interest bearing securities such as may be lawfully held by the City under Section 7-108 of the City Charter. The Treasurer may purchase such securities on the open market and may bid on new issues of such securities. The Treasurer may sell such securities on the open market, if there is an established market therefor, as necessary to meet the cash needs of the various funds.

The authority herein granted to the Treasurer may only be exercised with the approval of the Commissioner of Finance and Administration and, in the case of the investment of sums held in special funds or sinking funds, with the approval of Commissioner In Charge of the budget of such sinking fund or special fund.

**5.64.100 Determination of City's Subrogation for Time Loss Payments.**

The City Attorney shall determine the amount of any City claim under Charter Section 2-608 for time loss payments made to any officer or employee of the City. In making such determination the City Attorney shall consider the amount of time loss paid by the City, the amount of recovery, the nature and degree of the injury, the costs and expenses incident to the injury or to the recovery of damages, the testimony and evidence insofar as the same is conveniently available, the legal factors involved and all other facts and circumstances which he finds relevant to the particular situation. A tentative determination of the City claim may be made prior to recovery if the City Attorney finds it to be appropriate to assist in settlement of the claim of the officer or employee against another person. Such determination by the City Attorney on the basis of settlement or adjudication of the claim of the officer or employee shall in each case be deemed the amount of the City's claim by subrogation.

**5.64.110 Procedure Upon Obtaining Real Property with Outstanding Liens, Assessments or Accumulated Interest.**

In all cases where the City acquires a parcel of real property by purchase, gift, trade or otherwise, and the City is obligated to pay an outstanding lien and/or assessment with or without accumulated interest, the officer or Commissioner In Charge of the department or bureau acquiring the real property shall be responsible for the payment of the outstanding lien and/or assessment with accumulated interest, if any, from the appropriate fund at the time of acquisition.

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**CHAPTER 5.68 - PROFESSIONAL,  
TECHNICAL AND EXPERT SERVICE  
CONTRACTS**

(Chapter replaced by Ordinance No. 177244,  
effective July 1, 2003.)

**Sections:**

- 5.68.010 Definitions.
- 5.68.015 General Requirements – PTE Manual.
- 5.68.020 Special Procurements.
- 5.68.030 Public Announcement of Requirements.
- 5.68.035 Authority to Obligate City for Professional, Technical or Expert Services.
- 5.68.050 Review by City Attorney.
- 5.68.060 Outside Legal Services.
- 5.68.070 Procedure for Selection of Bond Counsel.
- 5.68.080 Consultant's Compliance with Workers' Compensation Requirements.

**5.68.010 Definitions.**

(Amended by Ordinance Nos. 182213, 184427, 185065, 187373 and 189878, effective March 4, 2020.) In addition to the definitions in PCC 5.33, the following definitions apply:

- A.** For the purposes of this Chapter, “professional, technical and expert” refers to any individual or group, excluding regular City employees, who, for a fee, provides services or gives professional advice regarding matters in the field of their special knowledge or training, such as, but not limited to: architects, engineers, lawyers, accountants, doctors, owner’s representatives, and counselors in investments or insurance. The Chief Procurement Officer has authority to classify services not specifically addressed in this provision as professional services if those services require professional advice in a field of special knowledge or training similar to those listed above.
- B.** "Estimated Fee" means City's reasonably projected fee to be paid for a Consultant's services under the anticipated Contract, excluding all anticipated reimbursable or other non-professional fee expenses. The Estimated Fee is used solely to determine the applicable Contract solicitation method and is distinct from the total amount payable under the Contract.

**5.68.015 General Requirements – PTE Manual.**

(Amended by Ordinance Nos. 182213, 184427 and 189878, effective March 4, 2020.) The Chief Procurement Officer of Procurement Services shall create and publish a Professional, Technical and Expert (PTE) Services Manual that shall govern selection and award of PTE Contracts. The Chief Procurement Officer may amend the PTE Manual to ensure that the interests of the public and PTE Consultants are fully served and that the process promotes accountability and competition among all segments of the citizens of Portland. The PTE

Manual shall include procedures providing for adequate notice of contract award to potential Consultants and shall provide the exclusive means by which selection decisions may be protested before the Contract is executed.

**5.68.020 Special Procurements.**

(Amended by Ordinance Nos. 179802, 182213, 184427, 187373 and 189878, effective March 4, 2020.)

- A. This Chapter applies to City procurement of professional, technical and expert services.
- B. The following services are designated as classes of Special Procurements, and are exempt from the selection process outlined in the City’s Professional, Technical and Expert Services Manual and can be made by direct appointment under this Chapter:
  - 1. Processing of any claim for workers' compensation benefits;
  - 2. Physician or medical personnel to determine any prospective or current City employee's ability to work or return to work;
  - 3. Determining any reasonable accommodation that may be made to any job classification in the City; and
  - 4. Veterinary physician, specialist, or medical personnel required to determine any prospective or current City-owned service animal’s ability to work or return to work, or providing general medical upkeep to a City-owned service animal;
  - 5. Golf Course Management Agreements (including concessions and club house operations) of a duration not to exceed five years for the parks under the jurisdiction of the City of Portland Bureau of Parks and Recreation.
  - 6. Modifications, including updates, upgrades, and enhancements by the licensor of intellectual property licensed to the City; or an authorized provider if the licensor does not directly provide the services.
  - 7. The City Attorney’s retention of expert witnesses and Consultants to assist the City Attorney’s Office in providing legal advice to the City, and outside legal counsel.
- C. If any emergency exists, as defined in PCC 5.33.130, the Chief Procurement Officer may authorize selection of a Consultant in accordance with PCC 5.33.130.
- D. If the services or expertise required for a project are only available from a “sole source” as defined in the PTE Manual, then the Chief Procurement Officer may

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authorize selection of a contractor without following the requirements of this Chapter or any Chapter of Portland City Code, but subject to the procedures outlined in the PTE Manual.

- E. The Chief Procurement Officer shall include all emergency and sole source Contracts in periodic reports to the City Council.
- F. If professional, technical or expert services are required in conjunction with the acquisition of goods, services, public improvements, construction services or some combination thereof, the Chief Procurement Officer may permit the acquisition of such services through the provisions of Chapter 5.33 or 5.34 of this Code instead of this Chapter.

**5.68.030 Public Announcement of Requirements.**

(Amended by Ordinance Nos. 182213, 184427 and 189878, effective March 4, 2020.) The PTE Manual shall set forth the procedures to be followed by all bureaus in announcing and advertising City PTE Solicitations. The procedures in the PTE Manual shall be designed to make information about such solicitations readily available to interested PTE Consultants, including firms certified by the State of Oregon Certification Office for Business Inclusion and Diversity (COBID) as Disadvantaged, Minority owned, Women owned, Emerging Small Businesses, and Service-disabled Veteran owned Business Enterprises (D/M/W/ESB/SDVB) as defined in ORS 408.225(hereafter referred to collectively as COBID Certified Firms). From time to time, the City may adopt programs designed to promote competition, enhance economic opportunity and stimulate hiring among all of Portland's citizens. When such programs are adopted, the Chief Procurement Officer shall take steps to ensure that PTE Consultants wishing to enter into contracts with the City are aware of the requirements for such programs.

**5.68.035 Authority to Obligate City for Professional, Technical or Expert Services.**

(Amended by Ordinance Nos. 182213, 184427 and 189451, effective April 10, 2019.)

- A. All professional, technical or expert services contracts or purchase orders shall be in writing in a form approved by the City Attorney as provided in Section 5.68.050. The Chief Procurement Officer, or designee, is authorized to execute contracts, including Price Agreements, for PTE services required by the City in any amount not exceeding \$1,000,000 without the need for an ordinance specifically authorizing the contract if the contract is included within the current fiscal year budget of the bureau seeking the contract.
- B. The Chief Procurement Officer has authority to execute amendments for Contracts and Price Agreements that were originally executed in accordance with Chapters 5.68 as follows:
  - 1. Amendments not exceeding 25 percent of the original Contract Amount.

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2. Amendments exceeding 25 percent of the original Contract Amount, provided that the amended Contract Amount does not exceed \$1,250,000 and the director of the bureau in whose behalf of the Contract was issued concurs.
  3. Execute amendments to Price Agreements if the yearly estimated cost to the City is \$1,250,000 or less.
  4. Amendments whenever an ordinance approved by the City Council grants additional authority to the Chief Procurement Officer beyond that stated in these rules.
- C. The Chief Procurement Officer is authorized, but not required, to waive any procedural irregularities in the PTE selection process provided the irregularities had no material effect on the selection of the proposed contractor.
- D. The provisions of Section 5.68.035 also apply to the procurement of services and contracts for services referenced in Subsection 5.68.020 B.

**5.68.040 Process for Services Costing Under and Over The Formal Bid Threshold.**

(Repealed by Ordinance No. 182213, effective September 24, 2008.)

**5.68.050 Review by City Attorney and Chief Procurement Officer.**

(Amended by Ordinance Nos. 182213, 184427, 187373 and 189878, effective March 4, 2020.)

- A. The Chief Procurement Officer or designee shall review and approve the form of all Requests for Proposals, Requests for Qualifications and other similar Solicitation Documents for all PTE Contracts or Price Agreements prior to issuance. Further review by the City Attorney will be at the Chief Procurement Officer's discretion.
- B. The City Attorney or designee shall approve the form of all PTE Contracts and shall ensure that all required documentation, is present before the Contract is executed. Such approval shall occur before work begins.

**5.68.060 Outside Legal Services.**

(Amended by Ordinance Nos. 179802, 180659, 182213, 184427 and 189878, effective March 4, 2020.)

- A. Except as specifically exempted by this Section, and in addition to the other requirements of this Chapter for professional, technical and expert service Contracts, the following procedures and requirements shall apply to any Contracts for legal services to be provided by attorneys outside of the Office of the City Attorney.

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1. All City bureaus, agencies, or offices wishing to contract for legal services not provided by the City Attorney's Office shall submit for approval in writing to the City Attorney all requests before any agreement is made to obtain any such outside legal services.
2. The Chief Procurement Officer has the authority to sign and approve Contracts and Contract Amendments for outside counsel allowed by this Chapter specifically Subsection 5.68.020 B.7. However, all billings and invoices for outside legal counsel's services shall be directed to the City Attorney for review and approval prior to payment.
3. The Chief Procurement Officer shall not process any purchase requisition for outside legal services without the written approval of the City Attorney or designee.
4. The Accounts Payable Division shall not process for payment any billing or invoice for outside legal services without the written approval of the City Attorney or designee.
5. This Section does not apply to selection of bond counsel, who are selected in accordance with Section 5.68.070 of this Code. However, all billings and invoices of bond counsel shall be directed to the City Attorney for review and approval prior to payment.

**5.68.070 Procedure for Selection of Bond Counsel.**

(Amended by Ordinance Nos. 182213 and 189878, effective March 4, 2020.)

- A.** At the time a bureau determines it will need bond counsel for a project or series of projects, the bureau will notify the City Attorney. The City Attorney or designee shall notify each counsel listed in the Oregon Section of the Bond Buyer's Directory of Municipal Bond Dealers (Red Book), requesting that those interested in serving as bond counsel for the project or series of projects submit proposals.

The notice shall indicate the nature of the project or series of projects, the type and approximate amount of bonds, the approximate date for the sale or sales of bonds, the bond counsel services required, and the date proposals are due.

- B.** Those counsel interested shall provide the following information to the City Attorney:
1. A statement of the fee arrangement proposed by the firm.
  2. Such other information as the City Attorney deems appropriate.
- C.** On receipt of the proposals the City Attorney shall refer them to a consultant selection committee (Committee) consisting of the City Attorney or designee; the

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Chief Administrative Officer or designee; and the Bureau Director or designee. The Committee shall consider only firms that are listed in the Red Book. The Committee may interview any or all firms, including more than once. The Committee may authorize firms to modify their proposals during the interview period.

- D.** The Committee shall select a law firm to serve as bond counsel for the project or series of projects. The selection shall be based on fee, experience, or such other criteria as the Committee deems appropriate.

**5.68.080 Consultant's Compliance with Workers' Compensation Requirements.**

(Amended by Ordinance No. 189878, effective March 4, 2020.) Prior to the performance of any work under a professional, technical or expert services Contract awarded by the City, a Consultant shall comply with the Workers' Compensation Law, ORS Chapter 656, as it may be amended, and if Workers' Compensation Insurance is required by ORS Chapter 656, shall maintain coverage for all subject workers as defined by ORS Chapter 656, and shall maintain a current, valid certificate of Workers' Compensation Insurance on file with the City Auditor for the entire period during which work is performed under the contract.

**5.68.090 Selection of Architectural, Engineering and Land Surveying Consultants for PTE Contracts.**

(Repealed by Ordinance No. 185065, effective January 1, 2012.)

**5.68.100 Direct Contracts with Architects, Engineers and Land Surveyors.**

(Repealed by Ordinance No. 185065, effective January 1, 2012.)

**5.68.110 Two-Tiered Selection Process.**

(Repealed by Ordinance No. 185065, effective January 1, 2012.)

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**CHAPTER 5.72 - ECONOMIC  
DEVELOPMENT PROJECTS**

(Chapter added by Ordinance No. 145441; amended  
by Ordinance Nos. 149771, 155942, 157012; and  
157226 effective May 13, 1985.)

**Sections:**

- 5.72.010 Purpose.
- 5.72.020 Definitions.
- 5.72.030 Economic Development - Applications.
- 5.72.040 Economic Development - Initial Review, Standards.
- 5.72.050 Housing - Applications.
- 5.72.060 Housing - Initial Review, Standards.
- 5.72.070 Initial Determination of Eligibility, Final Approval, Appeals.
- 5.72.080 General Conditions; Document Preparation and Review.
- 5.72.090 Application Processing, Financial Considerations.
- 5.72.100 Administrative Fees.
- 5.72.110 Bond Issuance.
- 5.72.120 Reporting Requirements.

**5.72.010 Purpose.**

The purpose of this Chapter is to provide necessary procedures and standards to carry out the powers granted to the City by Chapter 772, Oregon Laws of 1977 (ORS 280.410 to 280.485) as amended. This Chapter shall be liberally construed in order to carry out this purpose.

**5.72.020 Definitions.**

(Amended by Ordinance Nos. 166682 and 172567, effective August 12, 1998.) As used in this Chapter unless the context requires otherwise:

- A. “Economic development project”** includes any properties, real or personal, used or useful in connection with a revenue producing enterprise. “Economic development project” shall not include any facility or facilities designed primarily for the operation, transmission, sale, or distribution of electrical energy. “Economic development project” also includes multiple unit residential housing development on land having an assessed valuation of \$8 per square foot or more on September 13, 1975, land within a designated urban renewal or redevelopment area formed pursuant to ORS Chapter 457, land within an area designated as a Housing and Community Development target neighborhood pursuant to the Housing and Community Development Act of 1974, or projects which benefit low or moderate income tenants, or address slum and blight as defined by the 1974 Housing and Community Development Act.



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- B.** “**Eligible project**” means an economic development project found by the City to meet standards adopted pursuant to this Chapter. “Eligible project” includes multiple unit residential housing development which increases available housing units through new construction, rehabilitation of nonresidential buildings, or provides for rehabilitation of residential buildings.
- C.** “**City**” means the City of Portland.
- D.** “**Costs**” as applied to any project must conform to all applicable Internal Revenue Service regulations and may include:
1. The cost of construction and reconstruction.
  2. The cost of acquisition of property, including rights in land and other property, both real and personal and improved and unimproved and the cost of site improvements.
  3. The cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved or relocated.
  4. The cost of eligible machinery and equipment and related financing charges.
  5. The cost of engineering and architectural surveys, plans and specifications.
  6. The cost of financing charges and interest prior to and during construction, and if deemed advisable by the City for a period not exceeding 1 year after completion of construction.
  7. The cost of consultant and legal services, other expenses necessary or incident to determining the feasibility or practicability of constructing a project, administrative and other expenses necessary to or incident to the construction of the project, including, but not limited to, costs of relocation and moving expenses according to a project plan developed by the City, and the financing of the construction of the project thereof, including reimbursement to any state or other governmental agency or any lessee of such project for the expenditures made with the approval of the City that would be costs of the project under this Chapter had they been made directly by the City, and any costs incurred after bond issuance by the City for audits or monitoring.
- E.** “**Qualified historic project**” shall mean a project which includes the restoration or rehabilitation of a structure or structures designated as a City of Portland Historic Landmark. Such rehabilitation or restoration shall require the approval of the City

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of Portland Landmarks Commission to assure conformance with the Secretary of the Interior's standards for historic preservation projects.

**5.72.030 Economic Development - Applications.**

- A. The Portland Development Commission shall be responsible for receipt of applications and review and processing thereof. Applications shall be in a form established by the Portland Development Commission and shall include, in addition to other information deemed necessary by the Portland Development Commission:
1. Company/applicant information.
  2. Project information.
  3. Description of labor force at existing and proposed locations.
  4. Financial information.
  5. Environmental control information.
  6. Any information required by law or otherwise which is reasonable and necessary to effectuate the purposes of this Chapter.
  7. An agreement to indemnify and hold harmless the Portland Development Commission and the City of Portland, its officers and employees, from any and all liability for loss or damage to the company or any third person or entity arising from or alleged to have arisen from the processing of this application or any error or omission in any official statement or representation related to the contemplated financing.
- B. The applicant must certify by letter that the issuance of revenue bonds is an inducement to locate, retain, or expand the project in Portland.
- C. The requirements herein shall be considered to be minimums, and the Portland Development Commission and the City reserve the right to add additional requirements on a case-by-case basis. Likewise, the requirements herein stated pertain only to the Commission and the City and are not exclusive. Qualified bond counsel or the original purchaser may make additional requirements.

**5.72.040 Economic Development -Initial Review, Standards.**

- A. Upon receipt of an application, the Portland Development Commission shall review the application to determine whether the application should be further processed. In reaching such a determination, the Portland Development Commission staff may request additional information from the applicant as well as assemble any and all data deemed relevant to the decision.

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- B.** The Portland Development Commission shall consider the following:
1. Economic feasibility and general benefits to the City of the proposed project.
  2. Density of use and potential impact in the area affected by the proposed project.
  3. Land use, transit, and transportation facilities in the vicinity of the proposed project.
  4. City's ability to supply or support other needed services resulting from the Economic Development Project.
  5. Effect of proposed project on balanced economic development of the City.
  6. Employment and property tax income from the project.
  7. Employment opportunities. City and Portland Development Commission will use employment agreements when and where appropriate.
  8. Suitability of proposed area in the City for the particular type of proposed development project.
  9. Conformance with Internal Revenue Service regulations and the Oregon Revised Statutes.
- C.** No application shall be recommended for City Council approval unless the Portland Development Commission determines that the proposed project does not conflict with adopted City plans and policies, and conforms to the following uses:
1. Manufacturing or other industrial production.
  2. Agricultural development or food processing.
  3. Transportation or freight facilities.
  4. Warehousing or distribution.
  5. A project for the primary purpose of reducing air, water, or solid waste pollution.
  6. Other activities that represent new technology or types of economic enterprise that the City determines are needed to diversify the economic base of the community.

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7. Parking in close proximity to the Portland Performing Arts Center. Such a parking facility may include space for retail and commercial uses in addition to parking.
8. Commercial uses when a part of a qualified historic project or publicly initiated urban development project.

**5.72.050 Housing - Applications.**

- A. The Portland Development Commission shall be responsible for receipt of applications and review and processing thereof, including, but not limited to, advice of bond counsel and legal advice. Applications shall be in a form established by the Portland Development Commission and shall include, in addition to other information deemed necessary by the Portland Development Commission:
  1. The applicant's name, address and telephone number.
  2. A brief description of the applicant's company history and past relevant performance.
  3. A legal description of the property upon which the project will be located.
  4. A detailed description of the project including the number, size and type of dwelling units; dimensions of structures; parcel size, proposed lot coverage with buildings, and amount of open space; type of construction; public and private access; parking and circulation plans; water, sewer, and other utility plans; landscaping; expected uses; and economic feasibility studies and market information including rent levels proposed.
  5. A description of the existing use of the property including a proposed relocation plan for any persons who would be displaced from existing housing by the project; and for any businesses which would be displaced.
  6. A site plan and supporting maps, which show in detail the development plan of the entire project, showing streets, driveways, sidewalks, pedestrian ways, off-street parking and loading areas; location and dimension of structures; use of the land and structure; major landscaping features; design of structures; and existing and proposed utility systems including sanitary sewers, storm sewers, water, electric, gas and telephone lines.
  7. Any other information required by law or otherwise which is reasonable and necessary to effectuate the purposes of this Chapter.
  8. The approximate amount of bond proceeds and allocation to eligible costs.

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9. An agreement to indemnify and hold harmless the Portland Development Commission and the City of Portland, its officers and employees, from any and all liability for loss or damage to the company or any third person or entity arising from or alleged to have arisen from the processing of this application or any error or omission in any official statement or representation related to the contemplated financing.

**5.72.060 Housing - Initial Review, Standards.**

(Amended by Ordinance No. 177259, effective February 19, 2003.)

- A. Upon receipt of an application, the Portland Development Commission shall review the application to determine whether the application should be further processed. In reaching such a determination, the Commission may request additional information from the applicant as well as assemble any and all data deemed relevant to the decision.
- B. The Portland Development Commission shall, after review and comment by all relevant City bureaus, recommend approval, approval with conditions, or denial of the application, after consideration of the following:
  1. The economic feasibility of the project, with and without the use of revenue bonds.
  2. The need for housing resulting from the project.
  3. The general benefits to the City of the proposed project.
  4. The City's ability to supply or support other needed services required by the project.
  5. Employment and property tax income from the project.
  6. Suitability of the project as proposed in the specific proposed location.
  7. (Amended by Ordinance No. 157998; Nov. 21, 1985.) Projects applying for permanent financing must be determined to provide housing at rent or price levels 85 percent of which shall be affordable by households with incomes up to 150 percent of the area median income.
  8. Projects in the downtown, particularly the RX Zone, designated urban renewal or redevelopment areas shall receive highest priority.
  9. Conformance with Internal Revenue Service Regulations and the Oregon Revised Statutes.

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10. No application shall be recommended for approval unless the Portland Development Commission, after review and comment by all relevant City bureaus, determines that the project does not conflict with adopted City plans and policies.
  11. Projects applying for construction financing may be at rent or price levels up to 150 percent of median income, but must have available a firm commitment for long-term project financing.
- C. No project may be approved which would result in the conversion of existing occupied residential rental units to condominium or cooperative projects.
- D. The applicant, to be eligible for financing assistance under this program, must agree not to discriminate against any purchaser or tenant who is a parent or legal guardian with whom a child resides or is expected to reside, except in projects designed exclusively for households, the heads of whom are 62 years of age or older; or in projects designed for households, the heads of whom are 55 years of age or older, if the project meets the requirements of the applicable federal law.
- E. Revenue bonds may be issued secured by revenues from mortgage payments from individual owners of condominium and cooperative units within multiple unit housing projects which are newly constructed, rehabilitated from other uses or rehabilitated in abandoned residential buildings. Applications for such projects shall be considered by the Portland Development Commission if:
1. No individual or company may have more than one loan outstanding at any one time under this program for individual condominium or cooperative units.
  2. No mortgage loan funds under this program may be used for refinancing by existing owners, and no loans may be assumed by persons not eligible for condominium or cooperative units.
- F. The applicant shall submit a relocation plan for any households, individuals, or businesses which may be displaced by the proposed project. The Portland Development Commission will be responsible for analysis of that proposal and recommendation of that plan, that plan with amendments, or an alternative plan. The relocation plan shall assure that such households, individuals, or businesses are relocated to affordable housing of comparable or better quality.

**5.72.070 Initial Determination of Eligibility, Final Approval, Appeals.**

- A. The Portland Development Commission staff, within 60 days after a complete application is filed with the Commission, shall prepare a written recommendation of approval, approval with conditions or denial of the application.

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- B.** If Portland Development Commission staff recommends approval or approval with conditions of the application, the Commission shall, within 60 days of receipt of the application and recommendation, recommend by resolution that City Council approve, approve with conditions, or deny the application. This resolution shall include consideration of any required relocation plan. The Council shall, by resolution, approve, approve with conditions, or deny the application. Council approval or conditional approval of an application shall authorize the Portland Development Commission to process the application and to execute a letter of intent with the applicant.
- C.** Final approval shall take place after receipt and review by the Portland Development Commission of all requested and required final documents. All documents to be approved by the Portland Development Commission must be received in final form and received by the Commission 14 days prior to a scheduled Commission meeting. If the Commission determines that the documents comply with the rules and policies established within this Chapter, the Commission shall, by resolution, recommend issuance of the bonds in accordance with those final documents and further recommend that City Council adopt an ordinance authorizing issuance of the bonds in accordance with those documents.
- D.** If the Portland Development Commission staff recommends denial of the application, they shall notify the applicant in writing. The applicant may appeal by filing written notice thereof with the Portland Development Commission staff within 14 days of receipt of the notice of rejection. Upon receipt of the appeal, the Portland Development Commission shall, within 45 days, recommend by resolution, approval, approval with conditions or denial of the appeal.

**5.72.080 General Conditions; Document Preparation and Review.**

(Amended by Ordinance No. 166682, effective June 30, 1993.)

- A.** The following general conditions prevail in the issuance of all industrial development revenue bonds:

  - 1.** City of Portland economic development revenue bonds may be sold at public or private sale, and the bonds may mature at any time or times within the useful life of the project. For public sales, special approval may be required.
  - 2.** Any bond authorized under this Chapter which is to be sold by public sale must be rated by either a nationally recognized rating agency as Investment Grade.
  - 3.** Bonds sold through a private sale do not require a rating. For purposes of this Chapter, “private sale” means a sale of all of the bonds to persons or entities that qualify as “accredited investors” under 15 USC Section 77b

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(15) (I) or 17 CFR Section 230.215. The purchasers must also certify, in a manner satisfactory to the City, that they have the financial sophistication, knowledge and experience in financial matters to evaluate the investment in the bonds and the appropriateness of that investment for them, and that they have received all the information required to make an informed judgement about the purchase of the bonds. Bonds which are sold through a private sale may be resold or transferred only to persons or entities that qualify as accredited investors and that provide the certification described in the preceding sentence.

4. The City of Portland does not guarantee the bonds and is not subject to any liability for their repayment.
  5. The terms and conditions of the issuance and purchase of an industrial revenue bond issue are to be agreed upon by the applicant and bond purchaser with the concurrence of the Portland Development Commission (acting on behalf of the City.)
  6. Where residential rental property is assisted under this Chapter, construction of the project must begin within 9 months from the date of bond issuance.
  7. Applicant will be required to keep the Portland Development Commission advised of the schedule for document preparation and approval, and to provide drafts of documents to the Commission upon request of the Commission.
- B.** The following general conditions prevail regarding the preparation of all bond documents:
1. Bond counsel will be designated by the Portland Development Commission. Procedures for selecting bond counsel established by Section 5.68.080 of this Code shall not apply to projects initiated pursuant to this Chapter. The applicant will submit their recommendation of bond counsel.
  2. Bond counsel will advise the Portland Development Commission of all federal and state procedural requirements as they apply to issuance of the bonds.
  3. Bond counsel must be an Oregon law firm or other mutually acceptable bond counsel recognized in the Bond Buyers Directory of Municipal Bond Dealers of the United States.
  4. The trustee chosen by the applicant, and approved by the Commission, must be a bank or trust company doing business in the State of Oregon with trust powers.



5. All documents to be approved by the Portland Development Commission must be in final form and received by the Portland Development Commission 14 days before the Commission meeting at which it will be acted upon.

**5.72.090 Application Processing, Financial Considerations.**

- A. Upon receipt of a resolution approving the application, the Portland Development Commission shall consider:

1. The bond market for the types of bonds proposed for issuance.
2. The terms and conditions of the proposed issue.
3. Whether the applicant is financially responsible and fully capable and willing to fulfill its obligations under the agreement of lease, or contract, including the obligation to pay rent in the amounts and at the times required, the obligation to operate, repair and maintain at its own expense the project leased, or sold, and to serve the purposes of this Chapter and such other responsibilities as may be imposed under the lease or contract. In determining financial responsibility of the applicant consideration shall be given to the lessee's or purchaser's ratio of current assets to current liabilities, net worth, earning trends, coverage of all fixed charges, the nature of the industry or business involved, its inherent stability, any guarantee of the obligations by some other financially responsible corporation, firm or person, and other factors determinative of the capability of the lessee or purchaser, financially and otherwise, to fulfill its obligations consistently with the purposes of this Chapter and Chapter 772, Oregon Laws of 1977 (ORS 280.410 to 280.485.)
4. Such other relevant factors as the Development Commission considers necessary to protect the financial integrity of the City.

If the Development Commission shall determine that a bond issue is financially feasible it shall designate the underwriter, trustee and bond counsel and shall enter into appropriate agreements with each to carry out the provisions of this Chapter and Chapter 772, Oregon Laws of 1977 (ORS 280.410 to 280.485) subject to the approval of the Council pursuant to Section 5.72.110 of this Chapter. In reaching its determination, the Development Commission may appoint a Bond Review Committee to assist it in its deliberations, and may set administrative procedures from time to time as necessary.

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**5.72.100 Administrative Fees.**

(Amended by Ordinance Nos. 160540, 160608; and 166996, effective September 29, 1993.)

- A.** The applicant agrees to pay all applicable City and Portland Development fees and expenses associated with the application whether or not the bonds are issued. A minimum application fee of \$500 shall be assessed to all projects at the time of filing the formal application with the Commission. In addition, the Commission shall be reimbursed in full for all direct and indirect costs incurred in the project. The fees shall be paid as follows:
1. \$500 at the time of filing a formal application with the Portland Development Commission.
  2. The balance at the time of closing of the bond issue. In the event the financing is not completed, costs incurred to date by the Commission shall be subject to immediate reimbursement.
- B.** Upon issuance of the bond, the applicant will pay the Portland Development Commission a one-time issuance fee equal to seven dollars per 1,000 dollars of the face amount of the bonds for ongoing administration of the bonds. On bonds issued prior to March 23, 1988, the annual administration fee will henceforth be seventy-five cents per 1,000 dollars of the outstanding principal, billed yearly in advance. On bonds issued prior to March 23, 1988, the Portland Development Commission and applicants of outstanding issues may enter into an agreement to pay a one-time fee in lieu of the annual administration fee.
1. For refunding bonds issued under ORS Chapter 280 for economic development projects, if the one-time issuance fee has been paid in accordance with subsection (b) for the bonds being refunded, and the Portland Development Commission determines the refunding will not generate additional ongoing administration costs, the fee or an equitable portion thereof may be waived. Nothing in this subsection (1), however, should be construed to eliminate or limit the applicant's responsibility to pay all fees and expenses of the City and the Portland Development Commission described in subsection (a) of this section in connection with issuing the refunding bonds.

**5.72.110 Bond Issuance.**

Upon receipt of the recommendation of the Portland Development Commission, the Council may by ordinance authorize the issuance of bonds in an amount equal to the costs of the proposed project, pursuant to Chapter 772, Oregon Laws of 1977, if it determines that the proposed issue meets the requirements of said Act and this Chapter.

**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, 187339 and 188859, effective April 13, 2018.)

- A.** The Revenue Division's first year start-up costs are capped at \$600,000. Ongoing administrative costs will be subject to the oversight and annual approval of the City Council.
- 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.
- 5.74.045 Funds for Creative Space.
- 5.74.050 Siting.
- 5.74.060 Guidelines.
- 5.74.070 Ownership.
- 5.74.080 Decisions.
- 5.74.090 Implementation.

**5.74.010 Purpose.**

(Amended by Ordinance No. 189611, effective August 23, 2019.) 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 Public Art. Public Art contributes to experiences that enrich the social, physical and cultural environment of Portland and promotes dialogue among people of all ages and backgrounds. This Chapter shall be implemented in a manner that benefits all Portlanders, including historically underserved communities and neighborhoods.

**5.74.020 Definitions.**

(Amended by Ordinance Nos. 178946 and 189611, effective August 23, 2019.)

**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.

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4. The purchase of improved or unimproved property by the Portland Development Commission solely for resale or redevelopment, in which property is not otherwise to be put to a governmental use, shall not constitute an Improvement Project subject to the provisions of this Chapter.
- B.** Artist-in-Residence means an artist in any discipline who explores new working methods to develop socially engaging, interactive art experiences with City Bureaus through either permanent or temporary artworks.
- C.** Creative Space means a physical location or a mobile location like a truck that is owned, leased, rented by, donated to, or otherwise made available to the City of Portland that has the exclusive purpose of facilitating the creation or display of visual, performing, cultural or other artworks.
- D.** Eligible Costs means the Participating Bureau's capitalized costs for completion of an Improvement Project, including costs for capitalized tenant improvements. Eligible Costs do not include costs for: administration, fees and permits, building demolition, relocation of tenants, environmental testing, environmental remediation, non-construction contingency or indirect costs, such as interest during construction, advertising and legal fees. When an improvement project involves the acquisition of real property, costs attributable to land acquisition are not Eligible Costs, while costs attributable to improvements on the real property are Eligible Costs.
- E.** Eligible Funds means a Participating Bureau's monetary contribution to an Improvement Project. The following are not Eligible Funds: private development revenue, federal and state grants that preclude Public Art as an object for expenditure, Local Improvement District revenue, Water Operating Fund revenue, Water Construction Fund revenue, Sewer Systems Operating Fund revenue, Sewer Systems Construction Fund revenue and revenue from any other funding source subject to legal restrictions which preclude Public Art as an object for expenditure.
- F.** Public Art means original creative work, which is accessible to the public and/or public employees, and which has been approved as public art by the Regional Arts and Culture Council, acting on behalf of the City of Portland. This definition shall be liberally construed to support this Chapter's purpose, including but not limited to physical art works, Artists-in-Residence and Creative Space.
- G.** Participating Bureau means a City of Portland Bureau or Commission that funds an Improvement Project within the meaning of this Chapter.
- H.** Selection Panel means a group responsible for reviewing proposed Public Art. The Selection Panel will make a recommendation on the selection of Public Art to the Regional Arts & Culture Council. Selection Panels shall include a representative of

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the Participating Bureau, the Improvement Project architect or engineer, one or more artist(s), and one or more Portland resident.

**5.74.030 Dedication.**

(Amended by Ordinance Nos. 187570 and 189611, effective August 23, 2019.) Any City of Portland official or employee acting on behalf of a Participating Bureau who authorizes or appropriates expenditures for an Improvement Project shall include in the capital improvement program of the City's capital budget, and except as provided herein for funds used to generate Creative Space, disburse to the Regional Arts & Culture Council, a monetary contribution for Public Art equal to two percent (2%) of the total Eligible Costs or two percent (2%) of the total Eligible Funds of the Improvement Project, whichever is less. When all or a portion of the funds are used to generate Creative Space, the Participating Bureau will not disburse those funds to the Regional Arts & Culture Council; rather, those funds used to generate Creative Space will stay with the Improvement Project.

- A. The Participating Bureau representative shall authorize using the contribution of Eligible Costs or Eligible Funds for:
  - 1. Public Art sited in, on or about the subject Improvement Project; or
  - 2. Public Art on another property owned, leased, rented by, donated to or otherwise made available to the City of Portland; or
  - 3. Artists-in-Residence; or
  - 4. Creative Space; or
  - 5. Any combination of Subsections 1. through 4.
- B. The Office of Management and Finance shall adopt administrative rules and procedures to implement this section, which to the greatest extent practicable shall set forth the same procedures to be followed by all Participating Bureaus.
- C. The Regional Arts & Culture Council shall develop project plans for Eligible Costs or Eligible Funds that take into account the views of the Participating Bureau, with final approval of the project plans from the Commissioner-in-Charge of the Participating Bureau.

**5.74.040 Public Art Trust Fund.**

(Amended by Ordinance No. 189611, effective August 23, 2019.) The Regional Arts & Culture Council shall maintain a special fund called the Public Art Trust Fund into which funds dedicated to Public Art, excluding Creative Space, pursuant to Section 5.74.030 shall be deposited.

- A. Such funds shall be deposited into the Public Art Trust Fund, and shall be allocated as follows:

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1. For all Public Art that is not Creative Space, as follows:
  - a. 63 percent shall be used by the Regional Arts & Culture Council for costs associated with acquisition and production of Public Art including, but not limited to the procurement, creation, fabrication, and installation of Public Art.
  - b. 27 percent shall be used by the Regional Arts & Culture Council for costs of administration and management associated with Public Art, including, but not limited to costs of selection, project management, community education and registration of Public Art.
  - c. 10 percent shall be used by the Regional Arts & Culture Council for the maintenance, conservation and deaccessioning of Public Art.
- B. Such funds shall be deposited in separate accounts within the Public Art Trust Fund if separate accounting is requested by the Participating Bureau or required by law.
- C. Disbursements from the Public Art Trust Fund shall be made by the Regional Arts & Culture Council.
  1. Disbursements shall be made according to the terms of this Chapter and any guidelines adopted hereunder by the Regional Arts & Culture Council.
  2. If an Improvement Project is funded by revenue sources whose expenditure is restricted by the City Charter or other law, the Regional Arts & Culture Council, prior to making a disbursement for Public Art from such a restricted account in the Public Art Trust Fund, shall adopt written findings demonstrating that the proposed disbursement complies with all applicable restrictions.
  3. The Regional Arts & Culture Council will report annually and as requested to Participating Bureaus on the disbursement of funds from the Public Art Trust Fund.

**5.74.045 Funds for Creative Space.**

(Added by Ordinance No. 189611, effective August 23, 2019.) Participating Bureaus wishing to dedicate Eligible Costs or Eligible Funds towards the creation or improvement of Creative Space must obtain written approval from the Bureau's Commissioner-in-Charge. Requests must be submitted to the City Arts Manager at the Office of Management and Finance. Funds may not be used for programming or staffing.

Bureaus are responsible for operations and maintenance of Creative Space generated through this program and must submit an operations plan, 5-year programming plan, estimated annual budget and equity statement for the Creative Space.

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If any part of an Improvement Project is a Creative Space, the Participating Bureau may, after obtaining written approval from the Bureau's Commissioner-in-Charge, opt to dedicate its Eligible Costs or Eligible Funds for future maintenance of the Creative Space. The Office of Management and Finance shall adopt administrative rules and procedures to implement this section, which to the greatest extent practicable shall set forth the same procedures to be followed by all Participating Bureaus.

**5.74.050 Siting.**

Public Art selected pursuant to this Chapter may be sited in, on or about any Improvement Project or other property owned, leased, or rented by, donated to, or otherwise made available to the City of Portland in accordance with any restrictions placed on siting by the Participating Bureau.

**5.74.060 Guidelines.**

(Amended by Ordinance No. 189611, effective August 23, 2019.) The Regional Arts & Culture Council shall, after consultation with Participating Bureaus, and after receiving written approval from the Office of Management and Finance and Arts Commissioner, adopt guidelines to:

- A. Provide for annual reporting to Participating Bureaus;
- B. Provide a method for the appointment of representatives to Selection Panels;
- C. Determine a method or methods of selecting and contracting with artists for the design, execution and siting of Public Art;
- D. Determine the dedication and disbursement process for the Public Art Trust Fund;
- E. Determine a process for the ongoing care, maintenance and conservation of Public Art;
- F. Determine a process to deaccession art;
- G. Set forth any other matter appropriate to the administration of this Chapter.

**5.74.070 Ownership.**

All Public Art acquired pursuant to this Chapter shall be acquired in the name of the City of Portland, and title shall vest in the City of Portland.

**5.74.080 Decisions.**

(Amended by Ordinance No. 189611, effective August 23, 2019.) Except as limited by other sections of this Chapter, the Regional Arts & Culture Council shall make decisions as to the management and registration of Public Art, and disbursement of the Public Art Trust Fund. Notwithstanding the above, the Director of the Office of Management and Finance, in consultation with the Arts Commissioner and Participating Bureau, has exclusive final decision-making authority.

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**5.74.090 Implementation.**

(Amended by Ordinance Nos. 187570 and 189611, effective August 23, 2019.) The Regional Arts & Culture Council, or its designee, shall implement and be held accountable for the provisions of this Chapter, in cooperation with the Office of Management and Finance and all Participating Bureaus.

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**CHAPTER 5.75 - CLAIMS UNDER ORS  
CHAPTERS 195 AND 197**

(Chapter replaced by Ordinance No. 181640,  
effective February 28, 2008.)

**Sections:**

- 5.75.010 Purpose.
- 5.75.020 Definitions.
- 5.75.030 Filing an Amended Claim.
- 5.75.040 Review of Amended Claim by Program Manager.
- 5.75.050 Hearing on Amended Claim by City Council.
- 5.75.060 Filing a New Claim.
- 5.75.070 Review of New Claim by Program Manager.
- 5.75.080 Hearing on New Claim by City Council.
- 5.75.090 Claim Processing Fee.
- 5.75.100 Determination of Common Law Vested Right.
- 5.75.110 Hearing on a Common Law Vested Right By City Council.

**5.75.010 Purpose.**

The purpose of this Chapter is to establish a procedure by which owners of private real property located within the City of Portland may file claims pursuant to Chapters 195 and 197 of the Oregon Revised Statutes as amended by Ballot Measure 49 (November 6, 2007) (referred to in this chapter as "Measure 49") and to provide for consideration of claims by the City Council.

**5.75.020 Definitions.**

- A. Appraisal.** A written statement prepared by a person certified under ORS chapter 674 or a person registered under ORS chapter 308 that complies with the Uniform Standards of Professional Appraisal Practice, as authorized by the Financial Institution Reform, Recovery and Enforcement Act of 1989.
- B. Approved Measure 37 Claim.** A claim filed under ORS 197.352 and approved by the City Council before December 6, 2007.
- C. Department.** The Oregon Department of Land Conservation and Development.
- D. Exempt Land Use Regulation.** A land use regulation that:
  - 1. Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;
  - 2. Restricts or prohibits activities for the protection of public health and safety;
  - 3. Is required in order to comply with federal law;



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4. Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or
- E. Land Use Regulation.** A provision of the City of Portland comprehensive plan, zoning ordinance or land division ordinance that restricts the residential use of private real property zoned for residential use.
- F. Measure 37.** A ballot measure adopted by the voters of the State of Oregon and effective on November 6, 2004 that was codified as Oregon Revised Statutes (ORS) 197.352 and that required, under certain circumstances, the payment of just compensation to landowners if a government land use regulation restricted the use or property and reduced its value, or, in the alternative, authorized the government to remove, modify, or not apply one or more challenged regulations.
- G. Owner.** A person who is:
1. The owner of fee title to the property as shown in the deed records of the county where the property is located;
  2. The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
  3. If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.
- H. Program Manager.** The person authorized to administer and oversee the processing of claims under this Chapter.
- I. Protection of Public Health and Safety.** A law, rule, ordinance, order, policy or permit or other governmental authorization that restricts a use of property in order to reduce the risk or consequence of fire, earthquake, landslide, flood, storm, pollution, disease, crime or other natural or human disaster or threat to persons or property including, but not limited to, building and fire codes, health and sanitation regulations, solid or hazardous waste regulations and pollution control regulations.
- J. Reduction in Value.** A decrease in fair market value of the property from the date that is one year before the enactment of the land use regulation to the date that is one year after enactment, plus interest, adjusted by any ad valorem property taxes not paid as a result of any special assessment of the property under ORS 308A.050 to 308A.128, 321.257 to 321.390, 321.754 or 321.805 to 321.855, plus interest, offset by any severance taxes paid by the claimant and by any recapture of potential additional tax liability that the claimant has paid or will pay for the property if the property is disqualified from special assessment under ORS 308A.703.

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- K. Waiver.** Action by the Portland City Council to modify, remove or not apply one or more land use regulations found to have caused a reduction in value.

**5.75.030 Filing an Amended Claim.**

- A.** A person may amend a Measure 37 claim that was filed with the City of Portland on or before June 28, 2007.

- B.** To qualify for compensation or waiver, a person filing an amended claim under this section must establish that:

1. The claimant is an owner of the property;
2. All owners of the property have consented in writing to the filing of the claim;
3. The property is located, in whole or in part, within the City of Portland;
4. On the claimant's acquisition date, the claimant lawfully was permitted to establish at least the number of single family dwellings on the property that are authorized under Measure 49;
5. The property is zoned for residential use;
6. A land use regulation prohibits the establishment of a single-family dwelling;
7. The establishment of a single-family dwelling is not prohibited by a land use regulation described in ORS 197.352(3);
8. The land use regulation described in paragraph 6 of this section was enacted after the date the property, or any portion of it, was brought into the Metro Urban Growth Boundary;
9. The land use regulation described in paragraph 6 of this section was enacted after the date the property, or any portion of it, was annexed to the City of Portland;
10. The enactment of the land use regulation caused a reduction in the fair market value of the property; and
11. The highest and best use of the property was residential use at the time the land use regulation was enacted.

- C.** A person filing an amended Measure 37 claim under this section must submit the following information:

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1. The name, street address and telephone number of the claimant and all other persons and entities with an interest in the property;
  2. A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property, the deed registry of the instrument by which the claimant acquired the property, the location and street address and township, range, section and tax lot number(s) of the property, and the date on which the owner acquired the property interest;
  3. A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim;
  4. A reference to any and all specific, existing land use regulations the claimant believes reduced the value of the property and a description of the manner in which the regulation prohibits the residential use of the property;
  5. A copy of the city land use regulations that applied to the property at the time the challenged land use regulations became applicable to, or were enforced against, the property;
  6. An appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted;
  7. A description of the claimant's proposed use of the property if the Council chooses to waive a land use regulation instead of paying compensation;
  8. If the property is or has been enrolled in one or more of the special assessment programs listed in Section 5.75.020 J., information regarding tax amounts not paid as a result of the program or programs; and
  9. A statement whether the claimant filed a claim with other public entities on or before June 28, 2007, involving the same property and a copy of any decision made by the entity on the claim.
- D.** The Program Manager shall notify all claimants who filed claims on or before June 28, 2007, and whose claims were not decided by the City Council prior to December 6, 2007, that they may amend their claims under this section and shall provide a form for amended claims. A claimant must submit an amended claim under this section to the Program Manager within 120 days after the date of notice under this paragraph or the claimant is not entitled to relief.

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**5.75.040 Review of Amended Claim by Program Manager.**

- A.** The Program Manager shall review a claim filed under Section 5.75.030 to ensure that it provides the information required by Subsection 5.75.030 C. If the Program Manager determines that the claim is incomplete, the Program Manager shall, within 21 days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the Program Manager does not notify the owner that the claim is incomplete within the prescribed 21 days, the claim shall be considered complete on the date it was filed with the City of Portland.
- B.** The Program Manager shall review the claim for compliance with the requirements of Subsection 5.75.030 B. and prepare a tentative determination of compliance not later than 90 days after the filing of a complete claim. The Program Manager shall provide written notice to the claimant, the Department, and owners of property within 200 feet of the claim property of the tentative recommendation as to whether the claimant qualifies for the number of single-family dwellings the City of Portland proposes to authorize. The written notice shall inform recipients they have 15 days to submit evidence or argument to the Program Manager in response to the tentative recommendation. The Program Manager shall make a final recommendation on the claim within 135 days of the date the claimant notifies the Program Manager of the claimant's intent to continue the claim.
- C.** The Program Manager's recommendation to approve or deny a claim under Subsection B of this section shall be in writing and shall be supported by a brief explanation for the basis of the recommendation.

**5.75.050 Hearing on Amended Claim by City Council.**

- A.** The Auditor shall schedule each amended claim for consideration by City Council at a regularly scheduled City Council meeting. After considering the report and final recommendation by the Program Manager and any other material the Council determines is relevant, the Council shall make its final determination and adopt a final decision and order that explains the determination.
- B.** The City Council shall take final action within 180 days of receipt of a claim.
- C.** The City Council's decision shall be in writing and shall be supported by a brief explanation of the basis for the decision.
- D.** The Program Manager shall provide notice of the date, time and location of the public hearing at least 30 days before the hearing to the claimant, the Department, and owners of property within 200 feet of the claim property.

**5.75.060 Filing a New Claim.**

- A.** A person may file a claim after June 28, 2007, and will qualify for compensation or waiver, if:
1. The claimant is an owner of the property and all owners of the property have consented in writing to filing of the claim;
  2. The claimant's desired use of the property is a residential use;
  3. The claimant's desired use of the property is restricted by a land use regulation enacted after January 1, 2007;
  4. The enactment of the land use regulation has reduced the fair market value of the property; and
  5. The highest and best use of the property was residential use at the time the land use regulation was enacted.
- B.** A person filing a claim under this section must submit the fee for processing the claim prescribed in Section 5.75.090 and the following information:
1. The name, street address and telephone number of the claimant and all other owners of the property;
  2. A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property; the deed registry of the instrument by which the claimant acquired the property; the location and street address and township, range, section and tax lot number(s) of the property; the date on which the owner acquired the property interest; and any exceptions and encumbrances to title;
  3. A written statement signed by all owners of the property consenting to the filing of the claim;
  4. A citation to the land use regulation the claimant believes is restricting the claimant's desired use of the property;
  5. A description of the specific single-family residential use of the property that the claimant desires to carry out, but cannot because of the land use regulations;
  6. An appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted;

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7. If the property is or has been enrolled in one or more of the special assessment programs listed in Measure 49, Section 9(6), information regarding taxes not paid as a result of the program or programs; and
  8. A statement whether the claimant filed a claim with other public entities on or before June 28, 2007, involving the same property and a copy of any decision made by the entity on the claim.
- C. A person filing a claim under this section must file the claim within five years after the challenged land use regulation was enacted.

**5.75.070 Review of New Claim by Program Manager.**

- A. The Program Manager shall review the claim to ensure that it provides the information required by Section 5.75.060. If the Program Manager determines that the claim is incomplete, the Program Manager shall, within 60 days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the Program Manager does not notify the owner that the claim is incomplete within the prescribed 60 days, the claim shall be considered complete on the date it was filed with the Program Manager.
- B. A claim filed under this section shall not be considered complete until the claimant has submitted the information required by this section. If the claimant fails to submit a complete claim within 60 days after the notice prescribed in Subsection A, the claim shall be deemed withdrawn.
- C. The Program Manager shall conduct a preliminary review of a claim to determine whether it satisfies all of the following prerequisites for full evaluation of the claim:
1. The property lies within the City of Portland's jurisdictional boundary;
  2. The land use regulation that is the basis for the claim is a provision of a city land use regulation; and
  3. The claimant acquired an interest in the property before the effective date of the land use regulation and has continued to have an interest in the property since the effective date.
- D. If the claim fails to satisfy one or more of the prerequisites in subsection C of this section, the Program Manager shall prepare a report to that effect and recommend to the City Council that it dismiss the claim following a public hearing under Section 5.75.080.
- E. If the claim satisfies each of the prerequisites in Subsection C of this section, the Program Manager shall complete the review of the claim to determine whether it satisfies the criteria in Section 5.75.060.

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- F.** The Program Manager may commission an appraisal or direct other research in aid of the determination whether a claim meets the requirements of ORS 197.352 and to assist in the development of a recommendation regarding appropriate relief for a valid claim.
- G.** The Program Manager shall prepare a written report with the determinations required by Subsection E of this section and the reasoning to support the determination. The report shall include a recommendation to the City Council on the validity of the claim and, if valid, whether the City of Portland should compensate the claimant for the reduction of value or waive the regulation. If the Program Manager recommends compensation or waiver, the report shall recommend any conditions that should be placed upon the compensation or waiver to help achieve the purpose of this chapter and the policies of the City of Portland's comprehensive plan. If the Program Manager recommends waiver, the report shall recommend the specific number of single-family dwellings the City of Portland should authorize commensurate to the reduction in fair market value of the property.
- H.** The Program Manager shall provide the report to the City Council, the claimant, Metro, and other persons who request a copy.

**5.75.080 Hearing on New Claim by City Council.**

- A.** The City Council shall hold a public hearing on a claim prior to its final determination. The Program Manager shall schedule the hearing for a date within 180 days after the filing of a completed claim.
- B.** The Program Manager shall provide notice of the date, time and location of the public hearing at least 30 days before the hearing to the claimant and owners of the subject property, owners and occupants of property within 100 feet of the subject property, the Department, Metro, and Multnomah County. The notice shall indicate that:

  - 1.** A copy of the Program Manager's recommendation is available upon request;
  - 2.** Judicial review of the City of Portland's final determination is limited to the written evidence and arguments submitted to the City of Portland prior to or at the public hearing; and
  - 3.** Judicial review is available only for issues that are raised with sufficient specificity to afford the City of Portland an opportunity to respond in its final determination.

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- D. After the close of the public hearing the City Council shall make its final determination on the claim and enter an order with findings of fact and conclusions of law, based upon the record made before the City of Portland, that explain the determination. The Program Manager shall mail a copy of the final determination to the claimant, Multnomah County, and any person who submitted written or oral testimony prior to the close of the public hearing.
- E. The City Council will make its final determination within 180 days of the date the claim is complete.

**5.75.090 Claim Processing Fee.**

A claimant shall pay a \$250 fee to file a claim under Sections 5.75.030 and 5.75.060 of this Chapter. A claim will not be considered complete until the fee is paid. For any claims submitted on or after December 2, 2004 for which a fee was not paid at the time of claim submittal, the Program Manager may bill the owner for the fee at any time during the claim review process and prior to a final decision on the claim.

**5.75.100 Determination of Common Law Vested Right.**

- A. A person with an approved Measure 37 claim may apply for a determination that the person has a common law vested right to continue and complete a use or development allowed by an approved Measure 37 claim consistent with Measure 49.
- B. An applicant seeking to establish a common law vested right for an approved Measure 37 claim must submit the following information:
  - 1. The name, mailing address, and telephone number of the applicant.
  - 2. A legal description and tax lot numbers of the subject property as well as a street address for the property, if any.
  - 3. A copy of the approved Measure 37 claim decision from the City of Portland and, if appropriate, the State of Oregon.
  - 4. Additional information sufficient to address each of the factors listed in Subsection C of this Section.
- C. The factors to be considered by the Program Manager and the City Council in determining whether the applicant has a common law vested right to continue and complete a use or development allowed by an approved Measure 37 claim are:
  - 1. The amount of money spent on developing the use in relation to the total cost of establishing the use.
  - 2. The good faith of the property owner.



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3. Whether the property owner had notice of the proposed change in law before beginning development.
  4. Whether any improvements could be used for other allowed uses.
  5. The kind of use, and the location and cost of the development.
  6. Whether the property owner's acts are more than mere contemplated use or preparation, such as the leveling of land, boring test holes, or preliminary negotiations with contractors or architects.
  7. Other relevant factors.
- D.** The Program Manager shall review the application to ensure that it provides the information required by Subsections B and C of this Section. If the Program Manager determines that the application is incomplete, the Program Manager shall, within 30 days after the filing of the application, provide written notice of the incompleteness to the applicant. If the applicant fails to respond or submit the missing information within 30 days of the date of the Program Manager's notice, the application shall be considered complete on the date it was filed with the City of Portland.
- E.** The Program Manager shall prepare a written report with the determinations required by Subsections B and C of this section and the reasoning to support the determination. The report shall include a recommendation to the City Council on whether the applicant has established a common law vested right to continue and complete a use or development allowed by an approved Measure 37 claim.
- F.** The Program Manager shall provide the report to the City Council, the claimant, Metro, and other persons who request a copy.

**5.75.110 Hearing on a Common Law Vested Right By City Council.**

- A.** The City Council shall hold a public hearing on an application for a common law vested right to continue and complete a use or development allowed by an approved Measure 37 claim prior to its final determination. The Program Manager shall schedule the hearing for a date within 90 days after the filing of a completed application.
- B.** The Program Manager shall provide notice of the date, time and location of the public hearing at least 30 days before the hearing to the applicant and owners of the subject property, owners and occupants of property within 100 feet of the subject property, and the Department. The notice shall indicate that:
1. A copy of the Program Manager's recommendation is available upon request;

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2. Judicial review of the City of Portland's final determination is limited to the written evidence and arguments submitted to the City of Portland prior to or at the public hearing; and
  3. Judicial review is available only for issues that are raised with sufficient specificity to afford the City of Portland an opportunity to respond in its final determination.
- C. After the close of the public hearing the City Council shall make its final determination on the application and enter an order with findings of fact and conclusions of law, based upon the record made before the City of Portland, that explain the determination. The Program Manager shall mail a copy of the final determination to the claimant, the Department, and any person who submitted written or oral testimony prior to the close of the public hearing.
- D. The City Council will make its final determination within 120 days of the date the claim is complete.

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**CHAPTER 6.05 - TOURISM IMPROVEMENT  
DISTRICT**

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

**Sections:**

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**6.05.010 Portland Tourism Improvement District.**

(Amended by Ordinance No. 189028, effective August 1, 2018.) The Portland Tourism Improvement District includes all Hotels, as defined in Section 6.05.020, and all Short-Term Rental Hosts who use Booking Agents to advertise or accept reservations within the Portland City limits.

**6.05.020 Definitions.**

(Amended by Ordinance Nos. 187339, 187828, 188171, 189028 and 190318, effective April 9, 2021.)

- A. “Booking Agent” means any Person that provides a means through which a Host may offer a Short-Term Rental for transient lodging occupancy. This service is usually, though not necessarily, provided through an online platform and generally allows a Host to advertise the Short-Term Rental through a website provided by the Booking Agent’s hosting platform and provides a means for potential users to arrange transient lodging occupancy and payment, whether the transient pays rent directly to the Host or to the Booking Agent. Booking Agents include, but are not limited to:
  - 1. Online travel booking sites which are involved in the process of listing and booking Short-Term Rental transient lodging occupancies and handle any aspect of the resulting financial transaction; or

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2. Online travel booking sites for Short-Term Rental transient lodging occupancy where advertisements of Short-Term Rental transient lodging occupancy rentals are displayed; or
  3. A hosting or other online site that provides a means through which an Operator, Host or agent may offer a Short-Term Rental unit for transient lodging occupancy; or
  4. Any Person who lists commercial Hotel rooms or long-term rentals for transient lodging occupancy; or
  5. Any Person who directly or indirectly accepts, receives or facilitates payment, whether or not they are the ultimate recipient of the payment, including through Application Programming Interfaces (APIs) or other computerized devices where third-party providers receive information about a transaction and collect funds for the transient lodging occupancy from a Transient; or
  6. Any Transient Lodging Provider, Transient Lodging Intermediary or Transient Lodging Tax Collector as defined in ORS 320.300.
- B.** “Division” means the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, along with its employees and agents;
- C.** “Division Director” and “Director” mean the Director of the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, or designee;
- D.** “District” means the Portland Tourism Improvement District as described in this Chapter;
- E.** “Notice” means a written document mailed by the Division by first class mail to the last known address of a hotel as provided to the Division in the latest application or return on file at the Division; or, if mailed to a hotel who is not a licensee, then to the last known address of the hotel as provided to the Portland Water Bureau or, if that Bureau has no address record, as provided to the Revenue Division in the latest business license tax return on file at the Division or, if none, then to such address as may be determined following reasonable investigation;
- F.** “Hotel” means any structure, or any portion of any structure which is used, occupied, intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes, but is not limited to, any hotel, inn, tourist home or house, motel, studio hotel, boutique hotel, lodging house, rooming house, apartment house, single family house or any portion of such house, duplex, condominium, bed and breakfast facility, vacation home, multi-dwelling structure, accessory dwelling unit, trailer home, houseboat, public or private



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dormitory, hostel, fraternity, sorority, public or private club, corporate housing or executive housing space or facility and also means space in a mobile home or trailer park or portion thereof so occupied, provided such occupancy is for less than a 31-day period. All Hotels must comply with all local codes applicable to their location and use, including but not limited to zoning and building codes.

- G.** “Engaged in hotel management activities” means:
1. Being financially responsible for a water service provided to a Hotel or Short-Term Rental; or
  2. Being financially responsible for operation of a Hotel or Short-Term Rental business; or
  3. Being responsible for initiating or maintaining Short-Term Rental listing information on an online travel booking site; or
  4. Being financially responsible for the indicia of management of a Hotel or Short-Term Rental, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
    - a. Being responsible for waste disposal service provided to a Hotel or Short-Term Rental;
    - b. Being responsible for providing fire insurance for a Hotel or Short-Term Rental;
    - c. Being responsible for repair and maintenance of a Hotel or Short-Term Rental;
    - d. Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a Hotel or Short-Term Rental; and
    - e. Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a Hotel or Short-Term Rental.
- H.** "City Council" means the City Council of the City of Portland, Oregon.
- I.** "Rent" means the full consideration charged to the Transient for the right to occupy a Room in a Hotel or Short-Term Rental for the occupancy of guest rooms only, valued in money, goods, gift cards, labor, credits, property or other consideration of valued, without any deduction. Rent is considered to be the total amount represented to the Transient as the consideration charged for the occupancy

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including any accommodation fees, customer fees, booking fees, service fees, off-platform booking fees, non-refundable fees, commissions or similar amounts paid to or withheld by a Person that facilitates the reservation of a Room.

- J.** “Management Corporation” means an incorporated nonprofit organization that is responsible for the promotion of Portland on a year-round basis; manages tourism-related economic development plans, programs, and projects; and represents tourism-related businesses.
- K.** “Person” means any individual, firm, partnership, joint venture, limited liability company, association, club, trust estate, corporation (for profit or not-for-profit), or any other entity or combination of entities capable of engaging in Hotel management activities within the District.
- L.** “Licensee” means a person licensed to engage in hotel management activities within the District under this Chapter.
- M.** “Room” means each portion of a Hotel or Short-Term Rental which may be rented or is intended to be rented to a separate transient lodger or lodging party, other than rooms containing no sleeping accommodations and intended to be used for purposes other than sleeping and living accommodations such as, meetings, recreation, education, business or other purposes. In rooms with multiple beds where each bed may be rented or is intended to be rented to a separate transient lodger, such as bunk and dormitory style rooms, each bed is counted as a room under this definition. This definition is included for purposes of determining if a hotel is included in the District.
- N.** “Short-Term Rental” means a house, duplex, multi-plex, apartment, condominium, bed & breakfast, accessory dwelling unit, tiny house, houseboat, trailer or other residential dwelling where a person rents a full house or guest bedroom(s) for transient lodging occupancy. A Short-Term Rental is generally, but not always, zoned residential and has a residential building occupancy. Certain residential building occupancy may allow Transient Lodging Occupancy by right or by permit.
- O.** “Short-Term Rental Host” means the owner, agent or person who resides at a Short-Term Rental or has been designated by the owner, agent or resident of the Short-Term Rental and who rents out the Short-Term Rental for transient lodging occupancy either directly or by using a Booking Agent or Transient Lodging Intermediary.
- P.** “Tourism and Hospitality Recovery Surcharge” means the one percent surcharge rate established to further enhance the promotion of overnight tourism and improve the hospitality business environment during the economic recovery period following the COVID-19 global pandemic.

**6.05.030 License Registration Required.**

(Amended by Ordinance Nos. 187828 and 189028, effective August 1, 2018.) Any person engaged in Hotel Management Activities of any Hotel or Short-Term Rental who use Booking Agents to advertise or accept reservations within the District shall register for such activities covering each license year, or if application is made after the beginning of a license year, then for the balance of the license year. Only one person needs to register for each Hotel or Short-Term Rental who use Booking Agents to advertise or accept reservations in the District. The term license as used in this Chapter, shall not be construed to mean a permit and no physical license will be issued. The license fees prescribed herein are for the privilege of engaging in the activity of Hotel or Short-Term Rental management in the District, and the revenues collected will be used as provided herein. The payment of a license fee required hereunder and the acceptance of such fee shall not entitle a licensee to engage in any activities not in compliance with all the requirements of this Code, including but not limited to the requirements of Title 7, and all other applicable laws.

**6.05.040 License Transfer.**

(Amended by Ordinance No. 187828, effective July 15, 2016.)

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

**6.05.050 License Term.**

(Repealed by Ordinance No. 189028, effective August 1, 2018.)

**6.05.060 Portland Tourism Improvement District License Rate.**

(Amended by Ordinance Nos. 189028 and 190318, effective April 9, 2021.) The license assessment established by this Chapter for Hotel or Short-Term Rental management activities in the Portland Tourism Improvement District shall be calculated as follows:

- A. Gross rent charged by the Hotel or Short-Term Rental who use Booking Agents to advertise or accept reservations;
- B. Minus rent received from any occupant for a stay of more than 30 successive calendar days (rent derived from stays by a person who pays for lodging on a monthly basis, irrespective of the number of days in such a month, shall also be subtracted);

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- C. Minus rent received from stays by any person housed through an emergency shelter or disaster program where the rent is paid with government assistance funds; and
- D. Minus rent received from stays by any U.S. Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization.
- E. Multiplied by .02 (two percent) for stays occurring before July 1, 2021, which is the base rate, and by .03 (three percent) for stays occurring after June 30, 2021, which includes the two percent base rate and the one percent Tourism and Hospitality Recovery Surcharge rate.

**6.05.070 Due Date; Returns and Payments.**

(Amended by Ordinance Nos. 187828, 188171 and 189028, effective August 1, 2018.)

- A. The assessment imposed by this Chapter is due and payable on or before the last day of the following month for the preceding three months. If the due date falls on a Sunday or legal holiday as defined by ORS 187.010, amounts are delinquent on the first business day that follows. Payments and returns received or postmarked before the first business day that follows will be deemed to have been received on the due date. The Division has the authority to classify and/or district the Hotels or Short-Term Rental who use Booking Agents to advertise or accept reservations for determination of applicable collection periods.
- B. On or before the last day of the month following each quarter of collection, or month of collection if a Hotel or Short-Term Rental is required or elects to file monthly returns, a return for the preceding period's assessment on a form prescribed by the Division must be filed. The return must be filed in such form as the Division may prescribe for payment of the assessment.
- C. Returns must show the amount of assessment owed for the period. The Division may require returns to include additional information to explain the assessment calculation.
- D. The Person required to file the return shall cause to be delivered the return, together with the remittance of the amount of assessment due, to the Division at its office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the day of delivery for determining delinquencies.
- E. For good cause shown, the Division may extend the time for making any return or payment of the assessment for one month. No further extension will be granted, except by the Director. Any person granted an extension will pay interest at the rate of 1.25 percent per month on the amount of assessment due without proration for a portion of a month or reduction for any prepayments or credits available. If an extension is granted and the assessment and interest due is not paid by the end

of the extension granted, then the interest will be added to the assessment due for computation of penalties and additional interest designed elsewhere in this Chapter.

- F.** The Division, if deemed necessary in order to ensure payment or facilitate collection by the Division of the amount of assessments in any individual case, may require returns and payment of the amount of assessments for other than quarterly periods. If a Hotel or Short-Term Rental who use Booking Agents to advertise or accept reservations is required to report on a more frequent basis, the Division will provide a schedule showing the assessment periods, due dates and delinquent dates.
- G.** Any Booking Agent or Transient Lodging Intermediary who collects and remits the Transient Lodging tax imposed under Chapter 6.04, shall also provide a Short-Term Rental Host an option for the Booking Agent or Transient Lodging Intermediary to collect and remit the assessment imposed by this Chapter.

**6.05.080 Disposition of License Fees.**

(Amended by Ordinance No. 187828, effective July 15, 2016.) The Division shall forward revenues collected, minus any amount withheld to cover administrative costs incurred by the Division to the Management Corporation, which shall manage funds pursuant to Section 6.05.120.

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

(Amended by Ordinance No. 187828, effective July 15, 2016.)

- A.** The Director may adopt administrative rules, procedures, and forms to implement the provisions of this Chapter.
- B.** Adoption of Rules.
  - 1.** Prior to the adoption of any rule by the Director pursuant to this Section, a public hearing shall be conducted. The Director shall give reasonable public notice of a proposal to adopt rules not less than 10, nor more than 30, days before the public hearing. The notice shall include the place, time, and purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.
  - 2.** During the public hearing, the Director shall hear statements or receive written comment concerning the proposed rules. The Director shall either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review shall be conducted, but no additional public notice shall be required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules shall be effective upon

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adoption by the Director. All rules adopted by the Director shall be filed in the Division's office. Copies of all current rules shall be made available to the public upon request.

3. The Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of no longer than 180 days.

**6.05.100 Penalties and Interest.**

(Amended by Ordinance Nos. 187828, 188171 and 189028, effective August 1, 2018.)

- A. Original Delinquency. Any Licensee that has not been granted an extension of time for remittance of the assessment due and who fails to remit any assessment imposed by this Chapter on or before the due date will pay a late penalty of 10 percent of the amount of the assessment due in addition to the assessment. There is no grace period between the due date and the assessment of penalty and interest; the day following the due date is considered to be the delinquent date.
- B. Continued Delinquency. Any Licensee who fails to pay in full on or before the due date of an original delinquency notice will pay a second delinquency penalty of 15 percent of the amount of the assessment due plus all penalty and interest assessments at the time of the continued delinquency calculation.
- C. Fraud. If the Division determines that the nonpayment of any amount due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the assessment shall be added in addition to the late penalties stated in Subsections A. and B. of this Section and interest stated in Subsection D. of this Section. This penalty is calculated on the entire amount due, including any penalties and interest previously assessed at the time of the calculation.
- D. Interest. In addition to the penalties imposed above, any Licensee that fails to file or pay any assessment imposed by this Chapter will pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the assessment due from the first day following the original due date. Interest shall be compounded monthly until the amount due is paid in full.
- E. Penalties and interest merged with assessment. Every penalty imposed and such interest as accrues under the provisions of this Section will be merged with and become a part of the assessment required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the assessment due. This amount becomes the new base for calculating new penalty and interest amounts. This merging continues each month until the full balance is paid.

- F. Petition for Waiver. Any Licensee that fails to pay the assessment within the time stated must pay the tax, penalties and interest assessed; however, the Hotel may petition the Division for waiver and refund or credit of all or part of the penalty assessed and the Division may, if a good and sufficient reason is shown, waive some or all of the penalty assessment. Interest will not be waived except by written policy.

**6.05.105 Business License Appeals Board; Hearings Officer; Appeal; Rules.**

(Added by Ordinance No. 187828, effective July 15, 2016.) Any person engaged in hotel management activities aggrieved by a decision of the Division or Director made pursuant to this Chapter may appeal to the Business License Appeals Board or Hearings Officer as allowed in City Code Section 6.04.140 by filing a notice of appeal with the Division Director within 10 days of the service of the notice of a decision. Any hearing will be scheduled by the Business License Appeals Board or Hearings Officer in accordance with rules pertaining to such appeals. The procedures and rules of City Code Section 6.04.140 will apply to any such appeal.

**6.05.110 Civil Penalties.**

(Amended by Ordinance Nos. 187828 and 189028, effective August 1, 2018.)

- A. The Director may impose a civil penalty of up to \$500 for failure to file a return or pay any assessment within 60 days of the Due Date provided in Section 6.05.070.
- B. Failure to separately state on the guest folio, bill or receipt the 2 percent fee if the charge is being passed through to the guest as an additional charge or fee.
- C. The determination of a violation and imposition of a civil penalty under this Section shall be subject to appeal pursuant to Section 6.05.105.

**6.05.120 Revenues and Programs.**

(Amended by Ordinance Nos. 187828, 189028 and 190318, effective April 9, 2021.)

- A. Revenues shall be used only for programs which promote overnight tourism and improve the lodging and hospitality business environment. Programs shall be designed to benefit both Hotels and Short-Term Rental Hosts who use Booking Agents to advertise or accept reservations paying the assessment. Programs may include:
  - 1. Internet, radio, television, and print advertising;
  - 2. Branding efforts;
  - 3. Sales promotions;
  - 4. Sponsorship of special events which attract out-of-town visitors; and

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

**6.05.130 Portland Tourism Improvement District Periodic Sunset Review.**

(Amended by Ordinance Nos. 187828 and 190318, effective April 9, 2021.) During 2026 and each 5th year thereafter, the City Council shall conduct a public hearing or hearings to determine whether the Tourism and Hospitality Recovery Surcharge should be terminated. Prior to each such hearing, the Division shall mail notice of the hearing, consistent with Subsection 6.05.090 B.1., to the then current Portland Tourism Improvement District hotels under this Chapter.

**6.05.140 Severability.**

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



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- 8.36.010 Disposal of Dead Animals.
- 8.36.020 Spreading of Nonprocessed Organic Manure.
- 8.36.030 Hides, Curing and Keeping.
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- 8.36.110 Permits for Searching Dumps.
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**Chapter 8.40**

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8.95.010	Scope.

**8.24.330 Inspection Required.**

To the full extent permitted by law, the Health Officer or his representative shall have full authority to enter and to inspect the permit, license, register, and the sanitary conditions, and to question the patients, inmates or wards of any hospital or institutional home.

**8.24.340 Reports to the Bureau of Police.**

Every person conducting, maintaining or having charge of any hospital or institutional home, on receiving any person at such hospital or institutional home who cannot be identified or who is suffering from poisoning, administered by himself or another, or from any bullet wound or knife wound, or from any other physical injury, or traumatism inflicted with probable criminal intent, shall report the same immediately to the Bureau of Police. Any authorized representative of the Bureau of Police or the Bureau of Health may visit such person and seek such information as may appear necessary in determining the cause of poisoning, wound or other injury. In the event of the death of any such person the same shall be reported to the Bureau of Police immediately following such death.

**8.24.350 General Safety Requirements.**

- A.** All hospitals and institutional homes shall be required to familiarize themselves with and particularly enforce all applicable provisions of the fire, housing, building, plumbing and electrical codes.
- B.** All hospitals and institutional homes shall have at least one telephone (not including pay telephones) on each floor of the building, so located as to be easily accessible to anyone on the floor for the purpose of summoning help in case of fire or other emergency.

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**CHAPTER 8.32 - AUTOMOBILE TRAILER  
COURTS**

(Chapter repealed by Ordinance Number 190381,  
effective April 30, 2021.)

**CHAPTER 8.36 - DISPOSAL OF CARCASSES  
AND REFUSE**

**Sections:**

- 8.36.010 Disposal of Dead Animals.
- 8.36.020 Spreading of Nonprocessed Organic Manure.
- 8.36.030 Hides, Curing and Keeping.
- 8.36.040 Noisome Odors or Vapors.
- 8.36.050 Disposal of Refuse.
- 8.36.060 Stagnant Water.
- 8.36.070 Regulations for Transportation of Waste.
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- 8.36.120 Disposal of Refuse from Outside the City.
- 8.36.150 Burning Clothes.
- 8.36.160 Cleaning Skeletons.
- 8.36.170 Construction of Vehicles to Convey Garbage, Refuse and Other Solid Waste.
- 8.36.180 Vehicle Containing Manure to be Covered.

**8.36.010 Disposal of Dead Animals.**

(Amended by Ordinance No. 132188, effective April 1, 1971.) It is unlawful for any person to bury the carcass of any dead horse, cattle, or other large animal within the corporate limits of the City, and it is unlawful for any owner or person in possession or control of the carcass of any dead animal to allow the carcass to remain upon or in any public street, alley, public highway, or other public place or premises, or in or upon any yard, lot, or private premises. Removal of the carcass shall be at the expense of the owner. If the owner or person responsible for the removal of such carcass is not found, such carcass shall nevertheless be removed by City personnel. Nothing in this Section shall excuse the City from performance of any existing contract regarding the disposal of dead animals with the Oregon Humane Society or other organization.

**8.36.020 Spreading of Nonprocessed Organic Manure.**

(Amended by Ordinance No. 167943, effective July 27, 1994.) It is unlawful for any person to create a nuisance in any park, street, alley, lot building, dock, or any other place by depositing human or animal excreta, except manure as provided for in this Section. It is unlawful for any person to spread or cause to be spread or deposited upon any ground or premises within the City any nonprocessed manure, for fertilizing purposes, composed in whole or in part of organic excreta, during the months of June, July, August, September, and October, or at other times of the year when weather conditions are such as to permit the breeding of flies.

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**8.36.030 Hides, Curing and keeping.**

(Amended by Ordinance No. 167943, effective July 27, 1994.) No person shall to keep or store uncured or green hides of any animal in any house, store building, or other place where the same shall cause or create a noisome or offensive smell or atmosphere, to persons traveling along the public streets or to the owners or occupants of premises adjacent thereto.

**8.36.040 Noisome Odors or Vapors.**

(Amended by Ordinance No. 167943, effective July 27, 1994.) The rendering, heating, processing, or steaming of any animal or vegetable product or substance generating noisome or offensive odors shall be conducted using methods to entirely condense, decompose, deodorize or destroy the odors, vapors, or gaseous products. Such methods may include airtight cooking or rendering kettles, tanks or boilers, fitted with proper escapes or vents for steam used in rendering or cooking. Escaping steam shall be released through traps or other means so as to not cause unnecessary annoyance or create a nuisance by generating noisome or offensive odors in its disposal. No person shall burn upon any premises or in any street, alley or other place, any animal or vegetable substance which shall create an offensive or noxious odor.

**8.36.050 Disposal of Refuse.**

(Amended by Ordinance No. 167943, effective July 27, 1994.) No person shall allow any sawdust, oil, rags, brush, cans, old metal, butchers' offal, garbage, any animal or vegetable matter to accumulate which is or might become putrid or cause or create any noisome or offensive odor.

**8.36.060 Stagnant Water.**

(Amended by Ordinance No. 167943, effective July 27, 1994) It is unlawful for any person to permit or suffer water to flow onto or be cast upon any yard, lot, block, place or premises, or into or upon any street, gutter, or place adjacent to or abutting upon any yard, lot, block, or premises so that the same may become stagnant or impure and create or cause a noisome or offensive smell.

**8.36.070 Regulations for Transporting of Waste.**

(Amended by Ordinance No. 132188, 167943 and 169817, effective March 22, 1996.)

- A. Each vehicle used for the collection and transportation of wastes from food processing or food wastes intended for use as animal feed or to be further processed at a rendering plant shall be so constructed that the load therein will not spill or leak therefrom. All such vehicles shall be kept in a sanitary condition and shall be tightly covered in such a manner as to prevent the emanation of noxious or offensive odors. Metal containers may be used on such vehicles provided the same are at all times kept covered with tight-fitting covers to prevent leaking and/or spilling of the contents. The body and containers on all such vehicles shall be thoroughly washed and disinfected each day. No vehicle used for hauling food processing wastes or food wastes for animal feed shall at any time be used for the collection and



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transportation of solid wastes as defined by ORS.459.005 but not including the following materials which the ORS definition includes:

1. Sewerage sludge, septic tank and cesspool pumpings or other sludge;
2. Discarded or abandoned vehicles;
3. Recyclable materials or yard debris which is source separated and set out for recycling purposes.

**8.36.075 Enforcement and Appeal.**

(Added by Ordinance No. 167943, effective July 27, 1994).

- A. The City Health Officer is authorized to administer and enforce the provisions within Sections 8.36.030 through 8.36.070, and to investigate any violations of these provisions.
- B. In the event of a violation of any provisions within Sections 8.36.030 through 8.36.070, the City Health Officer may:
  1. Order the violation abated as a public nuisance; or,
  2. Assess civil penalties for each violation. It shall be considered a separate violation for each and every day during any portion of which any violation of these sections are committed, continued or permitted to occur. In determining the amount of the civil penalties to assess, the City Health Officer shall consider the extent the nature of the violation, the benefits (economic or otherwise) accruing or likely to accrue as a result of the violation; whether the violations were repeated and continuous, or isolated the temporary; the magnitude and seriousness of the violation; the costs of City Health Officer's enforcement, investigating and abatement of the violation; whether the facts underlying the violation have been considered in a separate criminal proceeding; and such other factors as the City Health Officer deems relevant; or
  3. Take such other action as the Health Officer may deem appropriate, in the exercise of the Health Officer's discretion.
- C. Any person adversely affected by a decision of the City Health Officer may file an appeal within 10 days the decision, to the Code Hearings Officer of the City of Portland, as set forth is Chapter 22.10 of the Portland City Code. The notice of appeal shall be in writing, stating the name and address of the appellant to which required notices may be mailed. The notice shall identify the reasons why the Health Officer's decision was in error, and what the correct decision should be. The appellant shall deliver a copy of the appeal to the Health Officer.

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1. The filing of a notice of appeal shall stay the effective date of the decision until the appeal if determined by the Code Hearings Officer.

**8.36.080 Spitting in Public Places.**

(Amended by Ordinance No. 197943, effective July 27, 1994.) It is unlawful for any person to expectorate on the floor or any other part of any public conveyance, or on the floor or walls of any public hall, building or office, or upon any sidewalk within the limits of the City, or on the floor or walls of any room where foodstuffs are prepared or kept for sale.

**8.36.090 Time for Removal of Refuse.**

(Amended by Ordinance No. 176585, effective July 5, 2002.) It is unlawful for any person to remove, transfer, or transport, any swill or garbage through the public streets at any time prohibited by Section 17.102.130, or by Title 16, Vehicles and Traffic.

**8.36.100 Dumping of Garbage, Refuse and Other Solid Wastes.**

(Repealed by Ordinance No. 169817, effective March 22, 1996.)

**8.36.110 Permits for Searching Dumps.**

(Repealed by Ordinance No. 169817, effective March 22, 1996.)

**8.36.120 Disposal of Refuse from Outside the City.**

(Repealed by Ordinance No. 169817, effective March 22, 1996.)

**8.36.150 Burning Clothes.**

It is unlawful to burn any clothes, bedding, wearing apparel, or personal property in any burial ground in the City, except in a stove within a building.

**8.36.160 Cleaning Skeletons.**

It is unlawful to scrape or clean the skeleton of any dead body in any burial ground within the City, except in a suitable building erected thereon. It is unlawful to deposit any scrapings or dead matter from any skeleton or dead body in any burial ground in said City in such manner as to expose the scrapings or dead matter to public view.

**8.36.170 Construction of Vehicles to Convey Garbage, Refuse and Other Solid Waste.**

(Amended by Ordinance No. 132188, effective April 1, 1971.)

- A. No person shall use, suffer, or permit to be used any vehicle to convey garbage unless such vehicle is tightly constructed and equipped with a closely fitting cover, and unless such vehicle is tightly covered at all times, except when the same is being loaded or unloaded. No person shall load or drive or cause to be loaded or driven, on any thoroughfare, any such vehicle containing garbage so as to suffer or permit any part of the contents of such vehicle to fall, spill or leak therefrom.
- B. No person shall load or drive, or cause to be loaded or driven on any thoroughfare, any vehicle transporting rubbish, refuse or other solid waste so as to suffer or permit

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any part of the contents of such vehicle to fall, spill, sift or be blown from such vehicle.

**8.36.180 Vehicles Containing Manure to be Covered.**

No person shall use, suffer, or permit to be used any vehicle to convey manure unless such vehicle is equipped with a canvas cover securely fastened to such vehicle so as to completely cover all of the manure contained therein at all times except when the contents thereof are being loaded or unloaded. No person shall load, drive, or suffer or permit to be loaded or driven on any thoroughfare any such vehicle containing manure so as to suffer or permit any part of the contents of such vehicle containing manure to fall, spill, or leak therefrom.

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**CHAPTER 8.40 - RODENT CONTROL**

**Sections:**

- 8.40.010 Definitions.
- 8.40.020 Regulations.
- 8.40.030 New Buildings to be Made Ratproof.
- 8.40.040 Additional Restrictions.
- 8.40.050 Docks and Wharves to be Protected.
- 8.40.060 Requirements for Watercraft.
- 8.40.070 Packing Houses.
- 8.40.080 Sanitary Maintenance of Buildings.
- 8.40.090 Unsanitary Accumulations.
- 8.40.100 Nuisance Abatement.
- 8.40.110 Metal Garbage Cans Required.
- 8.40.120 Accumulation of Waste Matters Attractive to Rats.
- 8.40.130 Demolition of Rat Infested Buildings.
- 8.40.140 Additional Regulations.

**8.40.010 Definitions.**

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

- A. “Approved”** as used in this Chapter where it applies to articles, materials, and methods means such articles as are approved by the Health Officer, who must approve each article, material, or method used in the exclusion of rodents.
- B. “Impervious material”** includes glass, wood, noncorrosive steel or iron and noncorrosive metal screen. The mesh of such screen shall not be larger than 1/4 inch and the thickness of the wire not less than No. 20, Brown and Sharpe gauge. Concrete masonry or other material which upon investigation by the Bureau of Development Services of this City shall be found to be of such hardness and texture as to effectively prevent penetration by rats. If any such material be found by the Health Officer to be insufficient to exclude rats by reason of decay, rot, breakage or other local or special condition, it shall no longer be termed impervious.

**8.40.020 Regulations.**

It is unlawful for any person to keep, store, or expose for sale any food, food product, or other thing which rats might eat, or to occupy any building, storeroom, grain elevator, warehouse, or residence within the corporate limits of the City without complying with the regulations herein provided for protection against, and elimination of rodents.

**8.40.030 New Buildings to be Made Ratproof.**

It is unlawful for any person to construct any building or structure or to repair or remodel any building or structure to the extent of 50 percent of the cost new unless the same shall be made ratproof by the use of impervious material as herein provided.

**8.40.040 Additional Restrictions.**

It is unlawful for any person to own, keep or use any storeroom, warehouse, grain elevator, residence or other building within this City where food or other things which rodents might eat, or where any animal or fowl is kept or any person resides or stays, without using impervious material in construction to effectively prevent rodents and especially rats from gaining entrance or being harbored underneath the floor or within the walls.

**8.40.050 Docks and Wharves to be Protected.**

It is unlawful for any person to own or keep any dock or wharf, public or private, unless it is protected so far as practicable by impervious materials installed to prevent rats from gaining entrance to or upon such dock or wharf from any vessel anchored or moored at or near such dock or wharf, or from other sources. All food on such dock or wharf, when remaining overnight, shall be effectively protected or guarded from rats. The owner or person in charge of any dock or wharf where food or other material which rats might eat is stored, when required by the Health Officer, shall provide bait and set traps as approved by the Health Officer. The Health Officer shall require such traps when conditions are such that rats are likely to gain access to any food product or other thing which rats might eat. The traps shall be set and baited in an effective and safe manner.

**8.40.060 Requirements for Watercraft.**

All docks and wharves shall be equipped with fender logs not less than 24 inches in diameter at the smallest part. It is unlawful for any vessel, steamboat, or other watercraft, except boats or watercraft operating exclusively on the Willamette or Columbia rivers, to lie alongside of any wharf or dock in the City, unless such vessel, steamboat or other watercraft shall be fended off from said wharf or dock so that no part of such vessel, steamboat, or other watercraft shall be nearer than 2 feet from the nearest point of the wharf or dock by a floating fender, log or spar of sufficient strength to maintain the distance of 2 feet. Each spar and each chain, Hawser, rope or line of any kind, extending from any vessel, steamboat, or watercraft, to the wharf or dock, shall be equipped with and have properly and securely attached thereto a rat shield or guard of such design, and in such manner, as shall be approved by the Health Officer.

**8.40.070 Packing Houses.**

It is unlawful for any person to own or use any packing house or cold storage plant where articles are kept which rats might eat unless such house or plant shall be so protected by impervious material as to prevent rats from gaining access thereto. All vents, windows, doors, holes, or openings thereto shall be so covered and protected by impervious material that rodents and especially rats may not gain access thereto. The doors shall be equipped with self-closing devices, which shall at all times be maintained in good operating condition.

**8.40.080 Sanitary Maintenance of Buildings.**

All buildings, places and premises in the City shall be kept and maintained by the owner, or occupant thereof, in a clean and sanitary condition, free from rats.

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**8.40.090      **Unsanitary Accumulations.****

The accumulation of any litter, filth, garbage, decaying animal or vegetable matter, or any animal or human excrement which may or does offer harborage or a source of food for rats is hereby declared to be a nuisance.

**8.40.100      **Nuisance Abatement.****

It shall be the duty of the Health Officer, or those whom he may direct, to cause any person to abolish, remove or abate any nuisance defined in Section 8.40.090. In case such person shall fail, neglect or refuse to abolish, remove or abate such nuisance within 24 hours after being directed so to do or such further time as said Health Officer may reasonably allow, such nuisance shall be abated in the manner provided by City ordinance for the abatement of nuisances. The cost of abating such nuisance shall be assessed against the property and collected in the same manner as that provided by ordinance in case of abatement of any other nuisance. Any person against whose property such costs are assessed shall be subject to other penalties provided by this Code.

**8.40.110      **Metal Garbage Cans Required.****

No person whether owner, lessee or occupant or agent of any premises improved or unimproved shall keep or permit to be kept in any building, areaway, or upon any premises or in any alley, street, or public place adjacent to any premises, any waste animal or vegetable matter, dead animals, butcher's offal, fish or parts of fish, swill, garbage, or any refuse matter from any public eating place, place of business, residence or other building, whereon or wherein garbage shall be created unless the same be collected and kept in a tight covered metal can or vessel.

**8.40.120      **Accumulation of Waste Matters Attractive to Rats.****

No rubbish, waste, or manure shall be placed, left, dumped, or permitted to accumulate or remain in any building, place, or premises in the City in such a manner that the same shall or may afford a harborage or breeding place or food for rats.

**8.40.130      **Demolition of Rat Infested Buildings.****

(Amended by Ordinance No. 176955, effective October 9, 2002.) It is unlawful to demolish, wreck or raze any building in the City used for commercial purposes or as a warehouse, barn, or stable, under order of a department of the City, until the Bureau of Health shall have certified that it is free from rodents. The certificate shall state that the premises have been baited with rat poison in a manner approved by or under the direction of the bureau. When such a building is vacated for the purpose of its being demolished, wrecked, or razed, the owner or person having control of such premises shall report such vacation to the Bureau of Health within 3 days. The Bureau of Health shall immediately cause an inspection to be made of the premises, and if the premises are found to be infested with, or to be a breeding place for rodents, they shall be baited or treated under the direction of the Bureau for a period not to exceed 30 days, at the expense of the owner or person having control of the premises.

Upon receipt of an application for a permit to demolish, wreck, or raze a building in the City, it shall be the duty of the Bureau of Development Services to report such an

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application to the Bureau of Health. No permit for demolition, wrecking, or razing shall be issued until the Bureau of Health certifies to the Bureau of Development Services that the building for which the application is made has been found free of rodents or has been treated or baited in the manner herein stated.

In the case of demolition, wrecking, or razing by the City under authority of an ordinance, the City shall be entitled to recover the cost for baiting or treating such premises in the same manner as it recovers other expenses incident to such demolition, wrecking or razing.

**8.40.140 Additional Regulations.**

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

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**CHAPTER 8.44 - INSECT CONTROL**

**Sections:**

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

**8.44.010 Created - Duties and Powers.**

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

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

**8.44.020 Interference with Officers.**

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

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

(Amended by Ordinance No. 184522, 185448 and 186053, effective January 1, 2015.) The owner, his agent, or the person in possession of any lot, tract or parcel of land so situated



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that it lies within 19 feet elevation above sea level, or which is flooded by the overflow from the Willamette River when at an 18 foot river level or stage, or so situated that during certain periods of the year water accumulates thereon, which facilitates the breeding of mosquitoes or other noxious insects, shall cut and remove, and keep cut and removed therefrom, all brush and undergrowth which may hamper or prevent the free spread of oil on such water. Any pruning or removal of trees shall be subject to the applicable requirements of Title 11. Nothing herein contained shall be considered to apply to bushes, trees, shrubbery and/or other vegetation grown for food, fuel, ornament or commercial purpose, or for the production of food, fuel, ornament or commerce, provided that the health and convenience of the public is not endangered by the maintenance of such growth or vegetation. Upon failure to keep such brush cut and removed, the owner, his agent, or the person in possession of such land, shall be subject to the penalties provided by this Code.

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

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**CHAPTER 8.48 - GENERAL PUBLIC AND  
EMPLOYEE FACILITIES**

**Sections:**

- 8.48.010 Common Drinking Cups and Towels.
- 8.48.020 Public Drinking Fountains.
- 8.48.030 Seats for Employees.
- 8.48.040 Seats in Elevators.
- 8.48.050 Toilet Facilities for Industrial Employees.
- 8.48.060 Drinking Fountains for Employees.

**8.48.010 Common Drinking Cups and Towels.**

It is unlawful for any person in the control or charge of any railroad station, public or private school, public building, office building, hotel, saloon, restaurant, theater, armory or any public place of amusement, or any establishment in which human food is handled, or in any library maintained for or used by the general public, to place, furnish or keep any common drinking cup or common towel for public use or to permit such public use.

“Common drinking cup” as used in this Section means any vessel or utensil used in conveying water to the mouth and available to the common use of the public guests, patrons, or inmates in the places mentioned herein. “Common towel” as used herein means a roller towel or towel intended or available for common use by more than one person without being thoroughly cleansed and sterilized after such use.

**8.48.020 Public Drinking Fountain.**

All schools shall be supplied with sanitary drinking fountains having bubbling cups and jets. All public drinking fountains shall be constructed and supplied with bubbling cups and jets and maintained in a clean and sanitary manner. This Section shall not apply to any fountains used exclusively by animals.

**8.48.030 Seats for Employees.**

Every employer in any manufacturing or mercantile establishment, store, department store, laundry, hotel or restaurant or other establishments shall provide for all employees a sufficient number of suitable seats, which in no case shall be less than one seat for each three employees, and shall permit them to use such seats when such employees are not engaged in active duties of their employment.

**8.48.040 Seats in Elevators.**

Any person owning or maintaining any elevator for the convenience of the public or tenants of any building who shall employ any person to operate such elevator shall furnish and keep in use in such elevator one comfortable and convenient stool or seat for the use and accommodation of the operator of such elevator during the time when such person shall be employed in operating the same. Stools shall also be provided for employees generally known as elevator starters, and shall be placed in the lobby of such building where such starters have their stand, while on duty.

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**8.48.050 Toilet Facilities for Industrial Employees.**

Every place of industrial employment shall be provided with adequate toilet facilities which are separate for each sex, except as hereinafter provided. Separate accommodations shall be apart from each other and have their own separate approaches. The one for men shall be clearly marked "MEN" and the one for women shall be clearly marked "WOMEN."

- A.** Toilet rooms. Toilet rooms shall be readily accessible to employees using them. No toilet facilities shall be more than one floor above or below the regular place of work of the persons using them, unless passenger elevators are available for employee's use in going to and from toilet rooms. Toilet facilities shall be located within 200 feet of all locations at which workers are regularly employed.

The door to every toilet room shall be fitted with an effective self-closing device and screened so that the compartments are not visible from the working room.

All compartment doors shall be supplied with latch. No toilet room shall open directly into a room where food is prepared, stored, served, manufactured or processed.

- B.** Water closets and urinals. One water closet shall be deemed adequate when not more than five males and females are required to use the same accommodations. When there are more than a total of five persons, males and females, employed or engaged, separate accommodations for each sex shall be provided according to the following table:

Minimum Number of Persons	Number of Water Closets
6 to 9	1
10 to 24	2
25 to 49	3
50 to 74	4
75 to 100	5
Over 100	1 for each additional 30 persons

When three or more water closets are required for men, one urinal may be substituted for one water closet, up to a maximum of one-third of the total water closets required. Whenever urinals are used they shall be of the wall type or pedestal type urinals equipped with an integral trap. Urinals shall be flushed by a flush-meter valve equipped with a vacuum breaker or by an elevated urinal flush tank. An adequate supply of toilet paper shall be provided for every water closet. Dry, covered depositories for refuse shall be kept in all toilet rooms used by females.

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- C. Washing facilities. Adequate facilities for maintaining personal cleanliness shall be provided. The same shall be conveniently located for the employees for whom they are provided and shall be maintained in a clean and sanitary manner.

Individual towels of cloth or paper shall be provided and proper receptacles maintained for disposing of used towels. Other apparatus for drying the hands may be substituted for towels only after approval by the Health Officer. Unless the general washing facilities are on the same floor and in close proximity to the toilet rooms, adequate washing facilities shall be provided in every toilet room or adjacent thereto.

A suitable cleansing agent shall be provided at each wash basin.

At least one wash basin with an adequate supply of hot and cold water shall be provided for every 20 employees or portion thereof, up to 100 persons; and one wash basin for each additional 25 persons or portion thereof. Twenty-four inches of the circumference of a wash fountain shall be considered equal to one basin.

A wash basin supplied with hot and cold water from one facet shall be provided near the place of work for every five employees exposed to skin contamination by any poisonous, infectious or irritating material.

**8.48.060 Drinking Fountains for Employees.**

There shall be provided in all places of employment an adequate supply of clean, cool, wholesome and safe drinking water which is readily accessible to all employees. All water furnished for drinking purposes shall be from the City water supply.

The common drinking cup is prohibited. When individual disposable drinking cups are supplied, there shall be provided a suitable container for the unused cups and also a receptacle for disposing of the used cups.

All drinking fountains shall be of an approved sanitary type. The water supply shall be provided with an adjustable valve fitted with a loose key or an automatic self-closing valve permitting regulation of the rate of flow of water. The water issuing from the orifice shall be of sufficient volume and height so that persons using the fountain need not come in direct contact with the orifice guard.

Combination faucets and drinking fountain appliances shall not be used. Drinking fountains shall not be installed on wash basins. Drinking fountains shall not be installed in toilet rooms. Expectorating upon the walls, floors, workplaces, stairs or other parts of any establishment is prohibited. Cuspidors, if used, shall be of such construction that they can be kept clean and disinfected, and they shall be cleaned often enough, and at least daily, to prevent them from becoming in any way a menace to health.

**CHAPTER 8.52 - TATTOO PARLORS**

**Sections:**

- 8.52.010 Premises.
- 8.52.020 Equipment.
- 8.52.030 Skin Preparation.
- 8.52.040 General Supplies.
- 8.52.050 Tattooing Minors - Infections - Medical Tests.

**8.52.010 Premises.**

Any person maintaining, conducting, operating or managing any tattooing establishment must comply with the following regulations:

- A. Premises and equipment must be maintained in a sanitary manner including physical cleanliness as well as antiseptic precautions;
- B. All establishments shall be equipped with hot and cold running water, and adequate toilet facilities properly installed in compliance with the Building Code as well as the health and sanitation regulations shall be provided;
- C. The premises and all equipment shall at all times be kept in a clean and sanitary condition.

**8.52.020 Equipment.**

- A. Sterilization of equipment may be either by:
  - 1. Dry heat at a temperature of 320 degrees Fahrenheit (160 degrees Centigrade) for at least 1 hour and preferably 2 hours;
  - 2. Steam pressure sterilization (autoclave), approved by the City Health Officer;
  - 3. Needles must be thoroughly cleaned with soap and water after each use. To prepare for sterilization each needle shall be flushed with freshly distilled water and left distinctly moist, just before being placed in the sterilizer. The tubes containing the needles shall rest on their sides in the sterilizer to facilitate air removal and steam intake to each tube and needle. Under these conditions the exposure period is 30 minutes at 250 degrees Fahrenheit, followed by drying for not less than 15 minutes.
- B. All needles and other instruments shall be kept in a closed glass case while not in use.

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**8.52.030 Skin Preparation.**

- A. Antiseptic techniques must be used. Each operator is required to scrub his hands thoroughly before beginning operations on the customer's skin. The skin area to be tattooed shall be thoroughly cleaned with liquid green soap or detergent and water.
- B. Only dyes containing an antiseptic may be used. Dyes shall be kept in individual containers.
- C. After tattooing, a sterile dressing shall be applied to the tattooed area.
- D. Tattooing shall not be performed on any person with any skin lesions or any communicable diseases.

**8.52.040 General Supplies.**

All establishments shall be provided with clean, laundered cloth or fresh paper towels in sufficient quantities. A clean towel must be used on each customer. Unused towels must be kept in a closed, dustproof container. All operators shall wear clean, washable garments. Operating tables preferably will be constructed of metal with a white enamel or porcelain finish or stainless steel.

**8.52.050 Tattooing Minors - Infections - Medical Tests.**

It is unlawful to tattoo any person under the age of 21 years.

All infections resulting from the practice of tattooing shall be reported to the City Health Officer by the person owning or operating the tattooing establishment. Any person engaged in the practice of tattooing shall submit to an annual chest X-ray and serological blood test for syphilis.

**CHAPTER 8.65 - SMOKING**

(Chapter replaced by Ordinance No. 165468,  
effective May 27, 1992.)

**Sections:**

- 8.65.010 Smoking Instrument Defined.
- 8.65.020 Smoking Prohibited Buildings.
- 8.65.030 Smoking Prohibited Vehicles.

**8.65.010 Smoking Instrument Defined.**

“Smoking instrument” means any cigar, cigarette, pipe or other smoking equipment.

**8.65.020 Smoking Prohibited Buildings.**

(Amended by Ordinance Nos. 180917 and 181436, effective December 21, 2007.) No person shall smoke or carry any lighted smoking instrument in the interior portion or within 50 feet of the exterior of any building if:

- A. The building is owned by the City; and,
- B. The building is occupied by City employees as their work site, except for certain areas of Portland Fire & Rescue that are or can be fully opened to the out of doors as designated by the Fire Chief.

The exterior no-smoking zone shall be measured from the building footprint including any exterior structural elements such as portico and loggia. The exterior no-smoking zone shall not extend into any property adjacent to the building or onto the roadway, but does include driveways, planting strips, sidewalks and pedestrian ways within 50 feet of the building.

**8.65.030 Smoking Prohibited Vehicles.**

No person shall smoke or carry any lighted smoking instrument in any City owned or leased motor pool vehicle.

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**CHAPTER 8.68 - ENFORCEMENT**

**Sections:**

- 8.68.010 Right of Entry.
- 8.68.020 Notice of Unhealthful Condition of Premises.
- 8.68.030 Use of Premises Found to be Unhealthful.
- 8.68.040 Powers of Inspectors.

**8.68.010 Right of Entry.**

To the full extent permitted by the law, the Health Officer has authority to enter in and upon all private and public premises at any reasonable time for the purpose of inspecting said premises or doing any other lawful act required or authorized to be done by him under this Code or ordinances of the City, the Charter or pursuant to state or federal law. It is unlawful for any person owning or controlling any premises used for any occupancy or business requiring a permit under this Code or used for any business licensed by the City, to refuse or neglect to obey any order of the Bureau of Health authorized by this Code or other ordinance or Charter provision, or to obstruct the Health Officer in the performance of his lawful duties.

**8.68.020 Notice of Unhealthful Condition of Premises.**

When upon investigation or inspection by the Health Officer, it is found that any building, property, or place where foodstuff of any kind or description is manufactured, processed, stored, handled, kept, or exposed for sale, or any such building, property, or place in which any person or persons dwell, or engage in any occupation, or assemble, is kept or permitted to be or remain in an unsanitary or filthy condition, or is not lighted or ventilated as required by Code, or in which the drainage and/or plumbing is so defective or unsanitary as to constitute a danger to health, or where the construction or condition of a building or part thereof is such as to endanger health, it shall be the duty of the Health Officer to notify in writing the owner or agent of the owner or person occupying such building or property, stating therein the condition or thing to be corrected and requiring that the same be corrected within a reasonable time to be specified in such notice. If, within such time, the condition is not remedied, it shall be the duty of the Health Officer to post or cause to be posted in a conspicuous place on such building or property a notice stating that such building or property has been found to be dangerous to health and that notice for correction has been given. The posted notice shall be continued until the dangerous condition has been corrected and the premises again inspected and found to be in healthful condition, whereupon the Health Officer shall remove the notice so posted. It is unlawful for any person other than the Health Officer, or those acting under him, to remove, destroy, deface, cover up, or conceal any notice posted as herein provided except by written permission of the Health Officer.

**8.68.030 Use of Premises Found to be Unhealthful.**

It is unlawful for any owner, lessee, or person representing the owner or lessee to rent or sublet or allow to be occupied any property after a notice, as prescribed in Section 8.68.020,



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shall have been given, and before a correction of the condition in such notice has been made. It is unlawful for any person to occupy any premises after having knowledge of such a notice and before the correction of conditions mentioned in said notice has been made. In any case, however, the Health Officer may set such a time, as may be reasonable under the circumstances, in which either to obtain a correction of the conditions which cause the issuance of said notice or to discontinue completely the use of the premises.

**8.68.040 Powers of Inspection.**

All meat, milk, and sanitary inspectors shall, by nature of their position, be special policemen. They shall have full powers of police officers to enforce all laws or ordinances appertaining to the duties for which they are employed.

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**CHAPTER 8.70 - ANNEXATIONS**

(Chapter added by Ordinance No. 131609, effective  
October 1, 1970.)

**Sections:**

8.70.010 Annexation to Remove Danger to Public Health.

**8.70.010 Annexation to Remove Danger to Public Health.**

When the State Board of Health finds that a danger to public health exists because of conditions within a territory contiguous to the City and otherwise eligible for annexation in accordance with Section 222.111, Oregon Revised Statutes, and that such conditions can be removed or alleviated by sanitary, water or other facilities ordinarily provided by the City, then the City shall follow the procedure authorized under Sections 222.850 to 222.915, Oregon Revised Statutes, to annex that territory.

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**CHAPTER 8.80 - RESIDENTIAL CARE  
FACILITIES**

(Chapter repealed by Ordinance No. 159765,  
effective June 30, 1987.)

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**CHAPTER 8.95 - ADULT CARE HOMES**

(Chapter added by Ordinance No. 155196, effective  
October 12, 1983.)

**Sections:**

8.95.010 Scope.

**8.95.010 Scope.**

- A.** The provisions of Multnomah County Adult Care Home Registration Ordinance No. 392, three copies of which are on file in the Office of the City Auditor, hereby are adopted by reference and made a part of this Title. Such provisions shall apply within the City of Portland and shall be administered and enforced by the Director of Human Services of Multnomah County, or his or her designee.
- B.** Nothing in the provisions of this Section shall be construed to create a cause or right of action against the City of Portland, its agents or employees, for the enforcement or failure to enforce any provisions of this Section.

## **TITLE 15 -EMERGENCY CODE**

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(Title replaced by Ordinance No. 184740, effective July 13, 2011.)

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**CHAPTER 15.04 - EMERGENCY CODE**

**Sections:**

- 15.04.010 Title.
- 15.04.020 Purpose.
- 15.04.030 Definitions.
- 15.04.040 Declaration of State of Emergency.

**15.04.010 Title.**

This Title shall be known as the “Emergency Code.”

**15.04.020 Purpose.**

The purpose of this Title is to provide for regulations which set forth the responsibilities of the City in the event an emergency exists within the City. The regulations are intended to reduce the risk of the City to loss of life, injury to persons, property, and the environment. The goal of regulations and the emergency code is to decrease human suffering and financial loss resulting from emergencies or disasters and to assign authority and responsibilities to various City bureaus. The State has assigned the responsibility for responding to emergencies and disasters to local governments.

**15.04.030 Definitions.**

(Amended by Ordinance No. 187370, effective October 7, 2015.)

- A. "Emergency" means any natural, technological or human-made event or circumstance causing or threatening: widespread loss of life, injury to persons or property, human suffering or financial loss, including but not limited to fire, explosion, flood, severe weather, landslides or mud slides, drought, earthquake, volcanic activity, tsunamis or other oceanic phenomena, spills or releases of oil or hazardous material, contamination, utility or transportation emergencies, housing emergencies, disease, blight, infestation, civil disturbance, riot, sabotage, acts of terrorism and war.

**15.04.040 Declaration of State of Emergency.**

(Amended by Ordinance Nos. 187370 and 190381, effective April 30, 2021.)

- A. A state of emergency exists when:
  - 1. The situation requires a coordinated response beyond that which occurs routinely;
  - 2. The required response is not achievable solely with the added resources available through mutual aid or cooperative assistance agreements; and
  - 3. The Mayor or other City official, as provided in Portland City Code Section 15.08.010, has declared by proclamation that a State of Emergency exists.



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- B.** The declaration shall be in writing, shall designate the geographic boundaries of the area in which the State of Emergency exists, and shall fix the duration of time in which the State of Emergency shall exist. Except for a declared housing emergency, the initial duration shall not exceed a two-week period, but may be extended in two-week increments. The initial duration of a housing emergency shall not exceed one year, but may be extended in six-month increments.
- C.** The Mayor must declare the City in a State of Emergency prior to requesting from the governing body of Multnomah County resources not available through mutual aid or cooperative assistance agreements.
- D.** The Mayor shall have the power to ask the Governor to declare a State of Emergency within the City. Pursuant to ORS 401.165 (2), the Mayor must submit the request through the governing body of Multnomah County.
- E.** Except for a declared housing emergency, the Mayor shall terminate the State of Emergency by proclamation when the emergency no longer exists or when the threat of an emergency has passed. The Mayor will communicate the change from the disaster response phase to the recovery phase with all appropriate officials.
- F.** When circumstances create an immediate need to provide adequate, safe, and habitable shelter to persons experiencing homelessness, the Council may declare a housing emergency exists. A housing emergency is a health and safety emergency under Portland City Code Subsection 33.296.030 G. and mass shelters are allowed as temporary activities for the duration of the emergency subject to the standards in Section 33.296.040.
- G.** The Council shall terminate a housing emergency by resolution when the emergency no longer exists or when the threat of an emergency has passed.
- H.** When circumstances create an unmet need for safe and habitable shelter, the Council may adopt an ordinance declaring a shelter shortage. This declaration will remain in effect until the Council terminates the declaration by ordinance.

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**CHAPTER 15.08 - EXECUTIVE  
RESPONSIBILITY**

**Sections:**

- 15.08.010 Succession.
- 15.08.020 Authority during a State of Emergency.
- 15.08.025 Authority during a Housing Emergency or Shelter Shortage.
- 15.08.030 Declaration of Nuisance.
- 15.08.040 Enforcement and Penalties.
- 15.08.050 Controlling Provisions.

**15.08.010 Succession.**

(Amended by Ordinance No. 185304, effective June 1, 2012.)

- A.** The Mayor is the Chief Executive of the City of Portland. If the Mayor, for any reason, is unable or unavailable to perform the duties of office under this Title during a State of Emergency, the duties shall be performed and authority exercised by the first of the following who is able and available:
  - 1.** The President of the Council;
  - 2.** The Council member who served as the immediate past President of the Council;
  - 3.** The Council member who served as the former past President of the Council and thereafter, the Council member holding the position with the lowest number if no member present has served formerly as President of the Council;
  - 4.** The first of the City officials in the following order: City Auditor, Chief Administrative Officer, City Attorney, Chief of Staff to the Mayor, the Chiefs of Staff of Council members in the order of priority listed in Subsection 15.08.010 A.1.-3. above, the Directors of Public Safety and Infrastructure Bureaus in the following order: Police Bureau, Fire Bureau, Transportation Bureau, Water Bureau, Bureau of Environmental Services, Parks Bureau, Bureau of Emergency Management, Bureau of Emergency Communications, Bureau of Human Resources, and thereafter the Directors of the Bureaus largest to smallest as determined by the number of full-time employees;
- B.** The powers of the successor to the Mayor's authority shall be the same as the Mayor and the duration of succession shall be until such time as the Mayor is able to perform the duties of office or a proclamation has been issued to terminate the State of Emergency.

**15.08.020 Authority during a State of Emergency.**

- A.** Upon the declaration of a State of Emergency, the Mayor shall assume centralized control and shall have authority over all bureaus, departments and other City offices as among other powers. The Mayor may delegate any authority vested in the Mayor.
- B.** Upon the declaration of a State of Emergency, in addition to any other power that may lawfully be exercised by a local government, the Mayor may:

  - 1.** Utilize all City owned resources;
  - 2.** Designate persons to coordinate the work of public and private relief agencies operating in the area and exclude from the area, any person or agency refusing to cooperate and work under the Director and/or Incident Commander or to coordinate with other agencies engaged in the emergency work;
  - 3.** Regulate by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means, the use, sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods and services;
  - 4.** Order the removal of debris and wreckage which may threaten the public health or safety on public or private property consistent with the provisions of PCC 15.08.030;
  - 5.** Barricade streets and prohibit vehicular or pedestrian traffic, or regulate the same on any public street leading to the area designated as an emergency area for such distance as may be deemed necessary under the circumstances;
  - 6.** Prohibit or limit the number of persons who may gather or congregate upon any public street, public place or any outdoor place within the area designated as an emergency area;
  - 7.** Establish a curfew for the designated emergency area which fixes the hours during which all persons other than officially authorized personnel may not be upon the public streets or other public places;
  - 8.** To the extent allowed by law, prohibit the sale, carrying or possession of explosives of any kind or weapons of any kind other than firearms on public streets or public places;
  - 9.** Establish rent controls and provide temporary or permanent housing by purchase, lease or otherwise and to enter into arrangements necessary to prepare or equip the living units for occupancy;

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10. Order the evacuation of persons from designated areas when necessary for public safety or when necessary for the efficient conduct of activities that minimize or mitigate the effects of the emergency;
11. Order such other measures as may be necessary to protect the life, safety and health of persons, property or the environment;
12. Adopt rules for the expeditious issuance of permits necessary to address issues that arise from the emergency or disaster;
13. Enter into contracts to the extent authorized by Charter Sections 8-104 and 8-105;
14. Activate emergency plans.

**15.08.025 Authority during a Housing Emergency or Shelter Shortage.**

(Added by Ordinance No. 187370; amended by Ordinance No. 190381, effective April 30, 2021.)

- A. Upon the declaration of a Housing Emergency or Shelter Shortage, the authority over all bureaus, departments, and other City offices shall remain as most recently delegated by the Mayor under Portland City Charter Section 2-302 unless the Mayor directs otherwise by written executive order.
- B. Upon the declaration of a Housing Emergency or Shelter Shortage, in addition to any other powers that may be exercised by a local government, the Council may:
  1. Utilize City owned resources;
  2. Designate persons to coordinate the work of public, private, or nonprofit relief agencies responding to the housing emergency;
  3. Provide temporary or permanent housing by purchase, lease or otherwise;
  4. Order such other measures as may be necessary to protect the life, safety and health of persons, property or the environment;
  5. Direct the expeditious issuance of permits necessary to address issues that arise from the emergency;
  6. Enter into contracts to the extent authorized by Charter Sections 8-104 and 8-105;
  7. Activate emergency plans; and
  8. Waive Portland City Code regulations or administrative rules to the extent necessary to respond to the housing emergency or shelter shortage, provided

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that, where feasible under the circumstances, Council will give advance notice of waiver of Title 33 provisions.

**15.08.030 Declaration of Nuisance.**

- A. Debris or wreckage resulting from a disaster or emergency situation is declared to be a nuisance.
- B. The nuisance shall be abated as provided by City Code, however, in situations where the public health or safety may be in danger, the City may summarily abate the nuisance and assess the property for the actual cost. Assessment procedures shall be followed.

**15.08.040 Enforcement and Penalties.**

- A. Enforcement of this Chapter may be by civil action as provided in ORS 30.315, or by criminal prosecution.
- B. In addition to any other penalty provided by law, refusal to obey an order issued under the authority of PCC 15.08.020 shall be punishable upon conviction by a fine of not more than \$500 per occurrence.
- C. Any peace officer may issue a citation for violation of this Section.

**15.08.050 Controlling Provisions.**

In the event of an emergency, the provisions in this Title shall control over any conflicting provisions in the Code of the City of Portland.



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**CHAPTER 17.04 - DEFINITIONS**

(Chapter replaced by Ordinance No. 185397,  
effective July 6, 2012.)

**Section:**

17.04.010 Definitions.

**17.04.010 Definitions.**

(Amended by Ordinance Nos. 186902, 189629, 189837, 190307 and 190479, effective June 30, 2021.) The following definitions apply to the entirety of Title 17. Additional section-specific definitions may be found in other sections.

- A. “**Alley**” has the definition provided by Section 33.910.030.
- B. “**Best Management Practices (BMPs)**” means operational, maintenance and other practices that prevent or reduce environmental, health or safety impacts. BMPs include structural controls, modification of facility processes, and operating and housekeeping pollution control practices.
- C. “**Brownfield**” means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.
- D. “**Building Permit**” means a permit required under Chapter 24 or state administrative rule to erect, construct, enlarge, alter, repair, move, improve, remove, convert, change occupancy group of, or demolish any building or structure, or to do any clearing or grading, or cause any of the same to be done.
- E. “**Chief Engineer**” means the engineer with the authority to act as the official agent of the bureau or department responsible for a local or public improvement or the lawfully designated subordinate of the City 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.
- F. “**City Engineer**” means the duly appointed City Engineer, or appropriate designees.
- G. “**Department of Environmental Quality (DEQ)**” means the Oregon Department of Environmental Quality.
- H. “**Development**” means all improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage or activities which create the need for additional usage or construction of public infrastructure.

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- I.** “**Director of the Bureau of Environmental Services**” means the duly appointed Director of the Bureau of Environmental Services, or the lawfully designated subordinate of the Director of Environmental Services acting under the orders of the Director of the Bureau of Environmental Services.
- J.** “**Director of the Bureau of Transportation**” means the duly appointed Director of the Bureau of Transportation, or the lawfully designated subordinate of the Director of the Bureau of Transportation acting under the orders of the Director of the Bureau of Transportation.
- K.** “**Dwelling Unit**” means a building or a portion of a building consisting of one or more rooms which may include sleeping, cooking, and plumbing facilities and are arranged and designed as living quarters for one family or household.
- L.** “**Engineer’s Estimate**” means the calculation of anticipated total dollar cost of the construction of a public or local improvement project as determined by the Chief Engineer. The estimate is used in determining the face value of performance bonds where applicable.
- M.** “**EPA**” means the United States Environmental Protection Agency.
- N.** “**Frontage**” means the length of public right-of-way adjacent to a property, measured in feet.
- O.** “**Lateral**” means the underground pipe that connects the plumbing system of a building or buildings to a public or private sewer.
- P.** “**Local Improvement**” means an improvement of, on, over or under property that is or will be owned or controlled by the public, by construction, reconstruction, remodeling, repair or replacement, when the improvement is determined by the Council to confer a special benefit on certain properties, and such properties are to be charged through assessment all or a portion of the improvement cost.
- Q.** “**Local street**” means any street classified as a Local Traffic Service Street in the City’s adopted Transportation System Plan.
- R.** “**Oregon Administrative Rules (OAR)**” means the State of Oregon Administrative Rules as amended.
- S.** “**Owner**” means an owner-of-record of real property according to the appropriate county’s assessment and taxation records.
- T.** “**Person**” means any natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, and/or the manager, lessee, agent, servant, officer, or employee of any of them.
- U.** “**Projected Future Curbline**” means:



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1. The location of the curbline as designated on City plans for street construction;
  2. To the edge of existing pavement; or
  3. To the appropriate width of the designated street classification as described in TRN-1.09 Design Standards for Public Streets.
- V. “Public Improvement”** means an improvement of, on, over or under property owned or controlled by the City, or property to be controlled by the City upon plat and easement recording for approved land divisions, by construction, reconstruction, remodeling, repair or replacement, when no property is intended to be charged through assessment any portion of the improvement cost.
- W. “Public Sewer”** means the entire City sewage, sludge, and stormwater collection, conveyance, treatment, pollution reduction, reuse, and disposal systems, including all pipes, ditches, sumps, manholes, and other system components that:
1. Have been designed for the collection and transport of stormwater, wastewater, or sanitary sewage received from street inlets, sewer service laterals and common private sewer systems; and
  2. Were
    - a. Constructed by the City’s Bureau of Environmental Services; or
    - b. Accepted by the City’s Bureau of Environmental Services under Section 17.32.055.
- X. “Public Utility”** means a person currently possessing a franchise or privilege granted by the City of Portland to provide utility service, or is a City bureau charged with providing utility service, to the public to generate, transmit or provide any such service within the City, including but not limited to electricity, telecommunications, natural gas, sewer, water, stormwater, cable or pipeline services.
- Y. “Public Works Project”** means any project performed or financed by a local, state, or federal government that results in the construction of a Local Improvement or a Public Improvement.
- Z. “Responsible Engineer”** as used in this title means the Engineer with the authority to act as the official agent of the bureau or department responsible for a local or public improvement or the lawfully designated subordinate of the Responsible Engineer. For the Portland 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.

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- AA.** “**Responsible Official**” means the Official with the authority to act as the official agent of the bureau or department or the lawfully appointed subordinate of the Responsible Official. For the Bureau of Transportation, this shall be the Director of the Bureau of Transportation as defined in this Section. For the Bureau of Environmental Services, this shall be the Director of the Bureau of Environmental Services as defined in this Section. For the Portland Water Bureau, this shall be the Director of the Portland Water Bureau as defined in this Section.
- BB.** “**Street**” means any street as defined in the City Charter, including all area between property lines, and area dedicated to street use.
- CC.** “**Tri-County Metropolitan Transportation District of Oregon (TriMet)**” is a public agency established under ORS 267.010 to 267.390 that operates mass transit which spans most of the Portland metropolitan area, and/or the manager, lessee, agent, servant, officer, or employee of the organization.

**CHAPTER 17.08 - LOCAL IMPROVEMENT  
PROCEDURE**

(Chapter replaced by Ordinance No. 177124,  
effective January 10, 2003.)

**Sections:**

- 17.08.010 Definitions and Scopes of Duties.
- 17.08.020 City Council Control.
- 17.08.030 Charter Provisions Applicable.
- 17.08.040 Initiation of Local Improvement Formation Proceedings
- 17.08.050 Petition for a Local Improvement District.
- 17.08.060 Resolution of Intent.
- 17.08.070 Local Improvement District Formation and Remonstrances.
- 17.08.080 Changes to Scope or Cost of Improvements and Notice to Proceed.
- 17.08.090 Abandonment of Local Improvement District.
- 17.08.100 Completion of Construction.
- 17.08.110 Total Cost of Local Improvement
- 17.08.120 Alternative Financing Methods.
- 17.08.130 Final Assessment and Objections.

**17.08.010 Definitions and Scopes of Duties.**

(Amended by Ordinance Nos. 182389, 184957, 189413, 190132 and 190307, effective April 2, 2021.)

- A.** The “Responsible Bureau” for a local improvement is as follows:
  - 1.** The Bureau of Transportation is the Responsible Bureau for street and other transportation improvements;
  - 2.** The Bureau of Environmental Services is the Responsible Bureau for sanitary sewer, stormwater management and other environmental improvements;
  - 3.** The Portland Water Bureau is the Responsible Bureau for water improvements; and
  - 4.** City Council will designate the Responsible Bureau for a local improvement that is not addressed by this section.
  
- B.** “Local Improvement District Administrator” means the person designated by the Director of the Bureau of Transportation to administer the City’s local improvement district program.
  
- C.** “Property” means includes land irrespective of whether such land is assessed for property taxes. Property for purposes of a future local improvement district

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assessment does not include equipment which may be assessed by other jurisdictions for property tax purposes. Property for purposes of a local improvement district assessment includes all public real property held in fee simple title but excludes public rights-of-way under public jurisdiction.

- D.** The Responsible Engineer as identified in Chapter 17.04 is responsible for:
1. Preparing a preliminary engineer's estimate and preparing an analysis of proposed significant and material changes to the scope or cost of improvements after formation of a local improvement district prior to preparing plans and specifications;
  2. Preparing plans and specifications;
  3. Entering into a contract for improvement construction and/or engineering;
  4. Handling completion of construction and acceptance of work;
  5. Preparing a final engineer's estimate; and
  6. Any other work related to engineering or construction.
- E.** The Local Improvement District Administrator is responsible for:
1. Preparing a petition for a local improvement district and determining the validity of a petition for a local improvement district as appropriate;
  2. Recommending an assessment methodology for a local improvement district to City Council;
  3. Analyzing financial feasibility of a local improvement district prior to formation;
  4. Preparing and filing a Resolution of Intent for formation of a local improvement district;
  5. Publishing and posting notices for the Formation Hearing of a local improvement district;
  6. Preparing and filing a Formation Ordinance for a local improvement district;
  7. Responding to remonstrances against formation of a local improvement district;

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8. Presenting significant and material changes to scope or cost of improvements to City Council after formation of a local improvement district;
  9. Recommending abandonment of a local improvement district;
  10. Determining the total cost of the local improvement;
  11. Publishing and posting notice of final assessment for a local improvement district;
  12. Preparing and filing the Final Assessment Ordinance for a local improvement district;
  13. Responding to objections against final assessment of a local improvement district; and
  14. Any other work related to processing or completing local improvement districts.
- F.** The Revenue Division will be responsible for:
1. Mailing notices for the Formation Hearing of a local improvement district at the direction of the Local Improvement District Administrator;
  2. Receiving written remonstrances against the formation of a local improvement district, and forwarding such remonstrances to the Local Improvement District Administrator for a response;
  3. Maintaining records of preliminary estimates of assessments;
  4. Mailing notices for the Final Assessment Hearing for a local improvement district at the direction of the Local Improvement District Administrator;
  5. Receiving written objections to the final assessment for a local improvement district, and forwarding such objections to the Local Improvement District Administrator for a response;
  6. Entering final assessments for a local improvement district into the docket of City Liens upon passage of an Final Assessment Ordinance for a local improvement district;
  7. Mailing of notices of final assessment to property owners after passage of the Final Assessment Ordinance and entry into the docket of City Liens;
  8. Determining the individual financial capacities of property owners, and whether to offer bonding, if requested; and

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9. Obtaining interim financing to pay for local improvement costs prior to bonding.

**17.08.020 City Council Control.**

(Amended by Ordinance No. 190132, effective October 16, 2020.) Whenever the City Council deems it expedient, it may order an improvement; when the City Council determines that such improvement will afford a special benefit to property within a particular local improvement district, the City Council will classify it as a local improvement, and provide for payment of all or a portion of the cost thereof by imposition and collection of local assessments on the property benefited.

**17.08.030 Charter Provisions Applicable.**

(Amended by Ordinance Nos. 184957 and 190132, effective October 16, 2020.) Charter provisions applicable to local improvements will be followed by the City except where Charter provisions are contrary to state statute or the Oregon Constitution. In case of such conflict, legally applicable City Code will apply.

**17.08.040 Initiation of Local Improvement Formation Proceedings.**

(Amended by Ordinance No. 190132, effective October 16, 2020.)

- A. City Council may, at its discretion, initiate a local improvement district formation proceeding by adopting a Resolution of Intent to undertake a capital construction project, or part thereof, based on one of more of the following criteria:
  1. A valid petition of support per the criteria in Section 17.08.050, signed by property owners and filed with the Local Improvement District Administrator;
  2. A recommendation from the Responsible Bureau
  3. Its own initiative.
- B. Where formation of a sewer local improvement district is ordered pursuant to an Environmental Quality Commission Order and a sewer plan has been developed and adopted by the City Council, preparation of the construction plans and specifications for that improvement may begin without action by the City Council.

**17.08.050 Petition for a Local Improvement District .**

(Amended by Ordinance No. 190132, effective October 16, 2020.)

- A. A petition of support may be prepared by the Local Improvement District Administrator or by owners of property that may be specially benefited by the proposed improvement.
- B. The petition will include:
  1. The name or designation of the improvement;

**17.13.040 Application.**

(Amended by Ordinance Nos. 181669, 187150, 189244 and 189924, effective May 15, 2020.) This Chapter applies to all New Development throughout the City of Portland. The amount of the Parks and Recreation SDC shall be calculated according to this section, using the rates set forth in the SDC Methodology Report.

- A.** Except as otherwise provided in this Chapter, a Parks and Recreation SDC shall be imposed upon all New Development for which an Application is filed on or after the effective date of this ordinance.
- B.** The Applicant shall at the time of Application provide the Administrator with the information requested on an SDC application form regarding the Previous Use and Proposed Use(s) of the property, including the following:
  - 1.** A description of each of the Previous Uses and Proposed Uses for the property for which the Permit is being sought, including the number of Dwelling Units and square footage for the entire property under the Previous Use and for the Proposed Use(s) of the New Development.
  - 2.** For residential uses, the number of residential dwellings and the square footage of each Dwelling Unit.
  - 3.** For non-residential uses, the square footage for each occupancy use type (i.e., office, retail, etc.).
- C.** Except as otherwise provided in this Chapter, the amount of the SDC due shall be calculated as follows:
  - 1.** Calculating the fee for the Proposed Uses (“the Proposed Use Fee”);
    - a.** Multiplying the number of Dwelling Units by their appropriate per-unit fee, based on square footage of each individual dwelling unit;
    - b.** Multiplying the square footage of each non-Dwelling Unit Proposed Use by the appropriate per-square-foot occupancy fee; and
    - c.** Adding the fees for the proposed Dwelling Unit and non-Dwelling Unit uses.
  - 2.** Calculating the credit for the Previous Uses (“the Previous Use Credit”); and
    - a.** Multiplying the number of Dwelling Units by their appropriate per-unit fee, based on square footage of each individual Dwelling Unit;
    - b.** Multiplying the square footage of each non-Dwelling Unit Proposed Use by the appropriate per-square-foot occupancy fee; and

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- c. Adding the credits for the previous Dwelling Unit and non-Dwelling Unit uses.
- 3. Subtracting the Previous Use Credit from the Proposed Use Fee to arrive at the net Park SDC due. If the Previous Use(s) were vacant for more than 36 months prior to the date of the application, the SDC due shall be the full amount of the SDC for the Proposed Use(s) and no credit shall be provided for Previous Use(s).
- D. The dollar amounts of the SDC set forth in the SDC Methodology Report are based on 2013 values and shall be adjusted on July 1, 2017 and thereafter annually on July 1st by the difference of the 3-year moving average of the Cost Index.
- E. Notwithstanding any other provision, the adjustment shall not exceed a total of 6 percent in any year. This is calculated by dividing the proposed new rate by the rate of the prior year, or, if a new rate structure was adopted less than 1 year prior, by the variance from the rate most recently adopted. If the resulting change is greater than 6 percent, the rate will be set at 6 percent variance from the rate of 1 year prior, or, if a new rate structure was adopted less than 1 year prior, by the variance from the rate most recently adopted.

**17.13.050 Application Requirements.**

(Amended by Ordinance Nos. 176955, 181669, 187150 and 189244, effective November 7, 2018.) All Applications must meet the application completeness requirements of the Planning Bureau and Bureau of Development Services. This Ordinance applies to all Applications for Building Permits for New Development, which Applications are not yet complete as of the effective date, and to those which are subsequently submitted or made complete. Fees are assessed based on the rate schedule in use on the date that the permit Application is made complete. For purposes of this Section, a complete Application must meet all the requirements of the Bureau of Development Services.

**17.13.060 Partial and Full Exemptions.**

(Amended by Ordinance Nos. 176511, 179008, 181669, 183448, 187150, 189050, 189244, 189323, 189924 and 190381, effective April 30, 2021.) The uses listed and described in this Section will be exempt, either partially or fully, from payment of the Parks and Recreation SDC. Any Applicant seeking an exemption under this Section must specifically request that exemption no later than the time of the City's completion of the final inspection. Where New Development consists of only part of one or more of the uses described in this section, only that/those portion(s) of the development which qualify under this section are eligible for an exemption. The balance of the New Development which does not qualify for any exemption under this section will be subject to the full SDC. Should the Applicant dispute any decision by the City regarding an exemption request, the Applicant must appeal as provided by Section 17.13.120. The Applicant has the burden of proving entitlement to any exemption so requested.



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- A.** Temporary uses are fully exempt so long as the use or structure proposed in the New Development will be used for not more than 180 days in a single calendar year.
- B.** Certain structures and uses are exempt to the extent provided by Section 17.14.070 of this Code.
- C.** Alteration permits for commercial interior alteration work are fully exempt, including commercial alterations that change occupancy. This exemption does not apply to alterations that create additional Dwelling Units, nor does it apply to the particular development on a property that previously benefitted from an exemption for mass shelters or short-term housing under Subsection 17.13.060 I.
- D.** New construction or remodeling of Dwelling Units where no additional Dwelling Unit(s) are created and the square footage of each remodeled Dwelling Unit does not change the range of square footage in the SDC Methodology Report is fully exempt.
- E.** Campus Housing is fully exempt.
- F.** For New Development which includes a mix of exempt and non-exempt forms of development, the applicable exemption(s) apply only to that portion of the New Development to which the exemption applies.

**17.13.070 SDC Credits.**

(Amended by Ordinance Nos. 172732, 172758, 173386, 174617, 181669, 187150 and 189244, effective November 7, 2018.) SDC Credits:

- A.** The City may grant a Credit against the Parks SDC, which is otherwise assessed for New Development, for any Qualified Public Improvements constructed by or conveyed by the Applicant as part of that New Development. At the time the application for a credit is made, the New Development must be identified by a Building Permit Number. Credit will not be allowed for a Qualified Public Improvement that was conveyed more than 36 months prior to the date of the request for the Credit, unless a Development Agreement provides otherwise. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC Credit.
- B.** To obtain an SDC Credit, the Applicant must specifically request a Credit prior to the City's completion of the final inspection for the New Development. In the request, the Applicant must identify the improvements for which Credit is sought and explain how the improvements meet the requirements for a Qualified Public Improvement. The Applicant must also document, with credible evidence, the value of the improvements for which Credit is sought. If, in the Administrator's opinion, the improvements are Qualified Public Improvement, and the Administrator concurs with the proposed value of the improvements, an SDC

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Credit can be granted, if approved as outlined below. The value of the SDC Credits under this section shall be determined by the Administrator based on the cost of the Qualified Public Improvement, or the value of Real Property Interests, as follows:

1. For Real Property Interests, the value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction.
  2. For improvements yet to be constructed, value will be based upon the anticipated cost of construction. Any such cost estimates must be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC Credit is sought. The City will give immediate credits based on estimates, but it will provide for a subsequent adjustment based on actual costs: a refund to the Applicant if actual costs are higher than estimated, and an additional SDC to be paid by the Applicant if actual costs are lower than estimated. The City will inspect all completed Qualified Public Improvement projects before agreeing to honor any credits previously negotiated. The City will limit credits to reasonable costs. Credits will be awarded only in conjunction with an application for development.
  3. For improvements already constructed, value will be based on the actual cost of construction as verified by receipts submitted by the Applicant.
- C. The Administrator will acknowledge receipt of the Applicant's request in writing within 21 days of when the request is submitted. The Administrator will confirm whether the application is complete or indicate additional information needed. The Administrator will provide a written explanation of the process for making the decision on the SDC Credit request.
1. The "Request for Parks SDC Credit for Qualified Public Improvement" (Form PSDC-7) and accompanying information will be sent to the Parks SDC Administration Section, who will prepare a staff report and convene the SDC Credit Review Committee. If Requests are received, the Committee will be convened quarterly. Applications not deemed complete 1 month prior to a committee meeting may not be heard until the following quarterly meeting. The Committee will be appointed by the Commissioner-in-Charge, after consultation with the Director, and include, but not be limited to, representatives of the following interests:
    - a. Development Community (e.g., Metropolitan Home Builders Association). Up to two representatives.
    - b. Environmental (e.g., Portland Audubon Society)

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- c. Public Interest (e.g., League of Women Voters, Urban League). Up to two representatives.
  - d. Neighborhood (one for each SDC Sub-Area)
  - e. Park Advocate (Portland Parks Board Member)
  - f. Business Community (e.g., Portland Business Alliance)
2. A representative of the Commissioner-in-Charge may attend and participate in the discussion but may not vote.
3. The Applicant may attend the Committee meeting to respond to questions and provide relevant testimony but may not be present during the Committee's deliberation and vote. The Administrator will present the public interest to the committee, including staff findings regarding the application. City Attorney staff may be present to respond to any legal questions. The Committee will review each proposal and the Administrator will provide a record of the Committee members present, the recommendation, along with any minority viewpoints, and minutes of the Committee's discussion, including a summary of factors considered to the Director and Commissioner-in-Charge. If a member of the Committee has a conflict of interest related to a specific application, the member must withdraw from the deliberations and recommendations. Each neighborhood interest representative may only participate in discussions of and recommendations for applications that pertain to the SDC Sub-Area that the member does not represent.
4. The Director (for SDC credits under \$250,000) or Commissioner-in-Charge (for SDC credits of \$250,000 and over) will make a decision within 30 days of the SDC Credit Review Committee meeting date. If a minority viewpoint is presented along with a majority recommendation, the Commissioner and Director will meet to review jointly before issuing a decision.
5. Copies of the decision and the Committee recommendations will be shared with the applicant and members of the SDC Credit Review Committee digitally, or as a hard copy if requested. Copies of the decision and Committee recommendations will also be available in the digital City Archives, with a link on the Parks SDC Webpage.
- D.** If the Applicant disputes the decision to grant or deny an SDC Credit, including the amount of the Credit, the Applicant may appeal as provided in Section 17.13.120.
- E.** When the construction or donation of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be

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applied against improvement fees that accrue in subsequent phases of the original development project. For purposes of this paragraph, “subsequent phases of the original development project” means additional New Development that is approved as part of the same regulatory development approval (such as elements approved as part of the same conditional use master plan or planned unit development) or other portions of the same “site” (as defined by PCC 33.901.030) that are explicitly defined in the application for SDC credits as subsequent phases of the original development project. For multi-phased developments, the applicant must describe all subsequent phases at the time application is made for SDC credits and must document to the satisfaction of the SDC Administrator that the subsequent phases are integrally connected with the original development rather than independent projects.

- F.** Parks and Recreation SDC Credits are void and of no value if not redeemed with the City for payment of a Parks and Recreation SDC within 5 years of the date of issuance.
- G.** Notwithstanding any other provisions of this section, with respect to conveyances of Real Property Interests specified in Development Agreements adopted before June 21, 2000, the value of the credit will be 25 percent of the appraised value of the Real Property Interest.

**17.13.080 Alternative Calculation for SDC Rate.**

(Amended by Ordinance Nos. 181669 and 189244, effective November 7, 2018.)

- A.** Pursuant to this section, an Applicant may request an alternative Parks and Recreation SDC rate calculation if the Applicant believes that the Applicant’s SDC should be lower than that calculated by the City.
- B.** Alternative SDC Rate Request
  - 1.** The Applicant’s alternative SDC rate calculation request must provide the Applicant’s reasons that the City’s occupancy assumptions for the class of structures that includes the New Development are inaccurate because:
    - a.** For residential development, the number of persons per Dwelling Unit is or will be fewer than the number of persons per Dwelling Unit established in the SDC Methodology Report; or
    - b.** For non-residential development, the number of resident equivalents per 1,000 square feet is or will be fewer than the number of resident equivalents per 1,000 square feet established in the SDC Methodology Report.
  - 2.** Alternative SDC rate calculations must be based on analysis of occupancy of classes of structures, not on the intended occupancy of a particular New Development.

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3. The City will not entertain an alternative SDC rate calculation request filed after the City has completed the final inspection for the New Development. Upon the timely request for an alternative SDC rate calculation, the Administrator will review the Applicant's calculations and supporting evidence and make a determination within 21 days of submittal.
4. The Applicant must provide complete and detailed documentation, including verifiable dwelling occupancy data, analyzed and certified by a suitable and competent professional. The Applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, demographics, growth projections, and techniques of analysis. The request must demonstrate that the rate established in the SDC Methodology Report does not accurately reflect the New Development's impact on the City's capital improvements.
5. The Administrator shall apply the Applicant's alternative SDC rate calculation if, in the Administrator's opinion:
  - a. The evidence and assumptions underlying the alternative SDC rate calculation are reasonable, correct and credible and were gathered and analyzed in compliance with generally accepted principles and methodologies consistent with this Section;
  - b. The proposed alternative SDC rate better or more realistically reflects the actual impact of the New Development than the rate set forth in the SDC Methodology Report.
6. The Administrator will respond with a written decision to the Applicant within 21 days of receipt of the Alternative SDC rate calculation request by email or certified mail and either approve or deny the request.

**17.13.090 Payment.**

(Amended by Ordinance Nos. 173565, 181669, 183447, 189244 and 189413, effective March 6, 2019.)

- A. The Parks and Recreation SDC required by this Chapter to be paid is due upon issuance of the Building Permit. However, in lieu of payment of the full Parks and Recreation SDC, the Applicant may elect to pay the SDC in installments as is authorized by ORS 223.208 and Chapter 17.14 of this Code. If the Applicant elects to pay the SDC in installments, a lien will be placed against the property that is subject to the SDC Deferral or Installment Agreement entered into by the Applicant and the City on a form provided by the City, and which may provide for the deferral of payments as set forth in Chapter 17.14 of this Code. In any event, the Applicant shall either pay the SDC in full or enter into an SDC Deferral or Installment Agreement as provided in this Code, before the City will issue any Building Permits.

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- B.** Upon written request of Portland Parks & Recreation, the Revenue Division is authorized to cancel assessments of SDCs, without further Council action, where the New Development approved by the Building Permit is not constructed and the Building Permit is cancelled.
- C.** For property that has been subject to a cancellation of assessment of SDCs, a new installment payment contract shall be subject to the code provisions applicable to SDCs and installment payment contracts on file on the date the new contract is received by the City.

**17.13.100 Refunds.**

(Amended by Ordinance Nos. 181669 and 189244, effective November 7, 2018.) Refunds may be given by the Administrator in the following instances:

- A.** If the Administrator determines that there was a clerical error in the calculation of the SDC.
- B.** If the City has not expended SDC revenues within 10 years of receipt.
- C.** Upon request by the Applicant, when a building permit application is cancelled.

**17.13.110 Dedicated Account and Appropriate Use of Account.**

(Amended by Ordinance Nos. 181669, 189244 and 189687, effective October 4, 2019.)

- A.** There is created a dedicated account entitled the “Parks and Recreation SDC Account.” All monies derived from the Parks and Recreation SDC shall be placed in the Parks and Recreation SDC Account. Funds in the Parks and Recreation SDC Account shall be used solely for the purpose of providing capacity-increasing capital improvements as identified in the adopted Parks and Recreation SDC-CIP as it currently exists or as is hereinafter amended, and eligible administrative costs. In this regard, SDC revenues may be used for purposes which include, but are not limited to:
  - 1.** design and construction plan preparation;
  - 2.** permitting;
  - 3.** land and materials acquisition, including any costs of acquisition, stabilization, or condemnation;
  - 4.** construction of parks and recreation capital improvements;
  - 5.** design and construction of new drainage facilities or streets required by the construction of parks and recreation capital improvements and structures;
  - 6.** relocating utilities required by the construction of improvements;

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7. landscaping;
  8. construction management and inspection;
  9. surveying, soils and material testing;
  10. acquisition of capital equipment that is, or is an intrinsic part of, a facility;
  11. demolition that is part of the construction of any of the improvements on this list;
  12. payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide money to construct or acquire parks and recreation facilities; and
  13. direct costs of complying with the provisions of ORS 223.297 to 223.314, including the consulting, legal, and administrative costs required for developing and updating the system development charges methodologies and capital improvement plan; and the costs of collecting and accounting for system development charges expenditures.
- B.** Money on deposit in the Parks and Recreation SDC Account shall not be used for:
1. any expenditure that would be classified as a maintenance or repair expense; or
  2. costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or
  3. costs associated with acquisition or maintenance of rolling stock
- C.** The City may prioritize SDC-funded projects and may spend SDC revenues for growth-related projects anywhere in the City. However, the City may not spend, or allocate as a placeholder in the Parks and Recreation SDC Account for future spending, less SDC revenues for local-access parks within any SDC service Sub-Area than the total amount of SDC revenues collected for local-access parks within that Sub-Area.
- D.** The proportional breakdown of the Local Access portion to the Non-Local Access portion of the SDC fee is 43 percent to 57 percent.

**17.13.120 Challenges and Appeals.**

(Amended by Ordinance Nos. 174617 and 189244, effective November 7, 2018.)

- A.** Any person may challenge the expenditure of SDC revenues by filing a challenge to the expenditure with the Administrator within two years after the date of the disputed SDC revenue expenditure.

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- B.** The Applicant may challenge a decision on an SDC Credit as applied under Section 17.13.070 by providing a written notice of appeal to the Administrator no more than 14 calendar days after the decision is posted online. The Applicant may challenge a decision on an SDC Exemption as applied under Section 17.13.060 or on an SDC Alternative Rate as applied under Section 17.13.080 by providing a written notice of appeal to the Administrator no more than 14 calendar days after the decision is provided to the Applicant. Appeals of decisions of the Administrator will be reviewed by the Director. Appeals of decisions of the Director will be reviewed by the Commissioner-in-Charge. An appeal of a Commissioner's decision, including but not limited to the Commissioner's review of the Director's decision, will be heard by the City Council. Appeals of decisions of the City Council will be reviewable solely under ORS 34.010 through 34.100.
- C.** Except where a different time for an Administrator's decision is provided in this Chapter, all Administrator decisions shall be in writing and shall be sent to the Applicant within 21 days of Administrator receipt of an Application or other Applicant request for an Administrator determination. Except where a different time for an appeal is provided in this Chapter, all appeals shall be in writing and shall be submitted within 14 calendar days after the decision is issued.
- D.** If an Applicant files an appeal under Subsection 17.13.120 B., the City shall withhold all Permits and other approvals applicable to the Applicant's property of the New Development pending resolution of all appeals under this Chapter unless the SDC is paid in full or Applicant provides, for the pendency of the appeal, a financial guarantee or security for the charge in a form acceptable to the City Attorney.

**17.13.130 City Review of SDC.**

(Amended by Ordinance Nos. 181669 and 189244, effective November 7, 2018.)

- A.** No later than every 10 years as measured from initial enactment, the City shall undertake a review to determine that sufficient money will be available to help fund the Parks and Recreation SDC-CIP identified capacity-increasing facilities; to determine whether the adopted SDC rate keeps pace with inflation, whether the Parks and Recreation SDC-CIP should be modified, and to ensure that such facilities will not be over-funded by the SDC receipts.
- B.** In the event that during the review referred to above, it is determined an adjustment to the SDC is necessary and consistent with state law, the City Council may propose and adopt appropriately adjusted SDCs.
- C.** The City Council may from time to time amend or adopt a new SDC Methodology Report by ordinance.



**17.13.140 Time Limit on Expenditure of SDCs.**

(Amended by Ordinance No. 189244, effective November 7, 2018.) The City shall expend SDC revenues within 10 years of receipt, based on the priorities in the Parks and Recreation SDC-CIP list.

**17.13.150 Implementing Regulations.**

(Amended by Ordinance Nos. 187150 and 189244, effective November 7, 2018.) The Director may adopt and amend by Administrative Rule regulations and procedures to implement the provisions of this chapter. Any Administrative Rule adopted under this Section shall be filed with the Auditor for inclusion in the Portland Policy Documents, in accordance with Chapter 1.07 of this Code. The Administrator may develop forms and procedures as needed to implement this chapter and the Administrative Rules.

**17.13.160 Amendment of the Parks and Recreation SDC-CIP List.**

(Amended by Ordinance Nos. 181669 and 189244, effective November 7, 2018.) The City Council may amend the Parks and Recreation SDC-CIP list as set forth in the SDC Methodology Report, from time to time to add or remove projects as the City deems appropriate. The Administrator may, at any time, change the description of the scope, and timing, for projects included in the Parks and Recreation SDC-CIP list. The Commissioner-in-Charge may change project budgets. Any amendment of the SDC-CIP list that increases an SDC rate may be adopted only by the Council after a public hearing as provided by ORS 223.309(2). An updated SDC-CIP list incorporating changes made under this Section will be posted on the Parks and Recreation website.

**17.13.170 Severability.**

The provisions of this Chapter are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any clause, section or provision of this Chapter shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this Chapter shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. It is hereby declared to be the legislative intent that this Chapter would have been adopted had such an unconstitutional provision not been included herein.



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**17.14.060 Cancellation.**

(Amended by Ordinance Nos. 183447 and 189413, effective March 6, 2019.)

- A.** Upon written request of the responsible City bureau, the Revenue Division is authorized to cancel assessments of system development charges, without further Council action, where the property is not physically connected to the public improvement of where the new development approved by the building permit is not constructed and the building permit is cancelled. The Revenue Division shall establish administrative guidelines and fees or charges relating to the cancellation of assessments. The Revenue Division shall maintain on file for public inspection a current copy administrative guidelines and fees or charges.
- B.** For property which has been subject to a cancellation of assessment of system development charges, a new installment payment contract shall be subject to the code provisions applicable to system development charges and installment payment contracts on file on the date the new contract is received by the City.

**17.14.070 System Development Charge Exemptions.**

(Added by Ordinance No. 189050; amended by Ordinance Nos. 189323 and 190381, effective April 30, 2021.)

- A.** Affordable housing developments are exempt from all system development charges as provided by Section 30.01.095 of this Code.
- B.** Certain developments and uses are exempt from parks and recreation system development charges as provided by Section 17.13.060 of this Code.
- C.** Certain developments and uses are exempt from transportation system development charges as provided by Section 17.15.050 of this Code.
- D.** Temporary uses are exempt from sanitary sewer system development charges as provided by Section 17.36.040 of this Code.
- E.** Certain developments and uses are exempt from water service system development charges as provided by Section 21.16.170 of this Code.
- F.** An accessory dwelling unit, as that term is defined in Chapter 33.910 of this Code, is exempt from all system development charges under the following conditions:
  - 1.** The building permit application for the accessory dwelling unit must have an intake date of August 1, 2018 or later.
  - 2.** Prior to issuance of a building permit for the accessory dwelling unit, the applicant must submit a recorded covenant on a form provided by the Revenue Division of the Bureau of Revenue and Financial Services. The covenant will prohibit the use of the accessory dwelling unit or any other structure on the property as an accessory short-term rental, as that term is

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defined in Chapter 33.207 of this Code, for a period of 10 years from the date of permit final inspection. The covenant must be recorded in the deed records for the property before the City will issue the building permit.

- 3.** The Revenue Division will enforce the requirements of this Section and may:

  - a.** Adopt, amend, and repeal administrative rules, establish procedures, and prepare forms for the implementation, administration, and enforcement thereof;
  - b.** In the event of a violation, use any reasonable means to collect debt, including but not limited to private collection agencies, liens, or lawsuits;
  - c.** Delegate functions under this Section as deemed appropriate by the Revenue Division;
  - d.** Impose a civil penalty of up to \$500 for failure to pay an application fee within 60 days of the approval of an SDC fee waiver;
  - e.** Impose a civil penalty of up to \$500 per violation for failure to provide requested information to the Division; and
  - f.** Waive or reduce for good cause any civil penalty assessed under this Section.
  
- 4.** If an applicant for an exemption under this section or a successor-in-interest thereof violates the covenant for an accessory dwelling unit or any requirement of this section, or if the covenant is terminated according to its terms:

  - a.** The exemption will be terminated and all previously exempt portions of system development charges will become immediately due and payable by the then-owner of the property. The amount owing will be 150 percent of the rates in effect at the time the violation is identified or the covenant is terminated, whichever is later.
  - b.** For the purpose of applying any previous use credits, SDC Bureaus will use the timeframe of the ADU building permit intake date. If credits are applicable, SDC Bureaus will apply credits using the rates in effect at the time the violation is identified, or the covenant terminated, whichever is later.
  - c.** A processing fee of \$400 per waiver application shall apply from August 1, 2018 through June 30, 2019. Thereafter the Revenue

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Division Director shall publish a fee schedule based on cost recovery.

- d.** The City may collect reinstated system development charges, processing fees, carrying charges, and the actual costs of collections by recording a property lien pursuant to Title 22 of this Code.
- G.** Mass, outdoor and short term shelters are exempt from all system development charges as provided by Portland City Code Section 30.01.096.



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5. For uses for which the appropriate SDC calculation is a unit of measure other than square feet, such as the number of students, movie screens, etc., the first Application submitted for such a use that is subject to this Chapter shall establish the baseline number of existing units of measure. No SDC shall be assessed against that baseline. A baseline Trip rate so established shall be valid, and need not be recalculated, for the next 12 months.
- C. Port Development. At the Applicant's option, Port Development may be subject to assessment under Subsection A. of this Section, or under this Subsection.
1. If the Applicant elects assessment under this Subsection C., the Applicant and the City shall negotiate an agreement for the payment of a fee in lieu of the Transportation SDC that includes the following elements:
    - a. A methodology for estimating the amount of the SDC which would be imposed pursuant to Subsection A. above during a period of either 3 years or until the expiration of the SDC project list, whichever is less, but in any event not more than 10 years, as specified by the Applicant. The methodology shall take into account the Port Development anticipated under the Applicant's master plan during the period specified in that plan, the Trips that the Port Development is expected to generate, Trip levels against which SDCs have historically been assessed, the anticipated increases or decreases in the dollar amounts of the SDC during the specified period, any applicable credits or exemptions and any other factors which the Administrator deems to be relevant. In no event shall the charge estimated under this Subsection be less than the SDC that would otherwise be due for the Port Development and the Applicant shall indicate its agreement to the methodology in writing.
    - b. A payment period shall be imposed during which the Applicant shall pay in full the amount due within 12 months of the Applicant's agreement to the methodology.
  2. In the event the Applicant and the City are unable to agree to a methodology under this Subsection, the normal method of calculating and assessing the SDC under Subsection A. above shall apply.

**17.15.050 Exemptions and Discounts.**

(Amended by Ordinance Nos. 171698, 173437, 177198, 181322, 182389, 182652, 183679, 183448, 184756, 185195, 185987, 187821, 188619, 188757, 188758, 189050, 189323, 189651 and 190381, effective April 30, 2021.) The uses listed and described in this section shall be exempt, either partially or fully, from payment of the Transportation SDC. Any Applicant seeking an exemption or a discount under this Section shall specifically request that exemption within 180 days after building permit issuance for the New Development. Where New Development consists of only part of one or more of the uses described in this

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section, only that/those portion(s) of the development which qualify under this section are eligible for an exemption or discount. The balance of the New Development which does not qualify for any exemption or discount under this section shall be subject to the full SDC. Should the Applicant dispute any decision by the City regarding an exemption or discount request, the Applicant must apply for an alternative exemption calculation under Section 17.15.070. The Applicant has the burden of proving entitlement to any exemption so requested.

- A.** Temporary Uses are fully exempt so long as the use or structure proposed in the New development will be used not more than 180 days in a single calendar year.
- B.** New Development that will not generate more than 15 percent more Person Trips than the present use of the property generates and that will not increase Person Trips by more than 25 Person Trips shall be fully exempt.
- C.** Certain structures and uses are exempt to the extent established by Section 17.14.070 of this Code.
- D.** Discount of the Transportation SDC may be available for qualified land use types described in this Subsection and located within designated areas of the City. The Applicant has the burden of proving entitlement to any discount so requested. For projects located within the North Macadam TSDC Overlay area or Innovation Quadrant TSDC Overlay area, the discount is only applicable to the Citywide TSDC. No discount may be applied to the North Macadam Overlay TSDC or the Innovation Quadrant Overlay TSDC.
  - 1.** To qualify for a discount, the Applicant must demonstrate the following:
    - a.** The New Development will be located within the Central City or other centers as designated by the Bureau of Planning and Sustainability. Other centers include the Gateway Plan District, areas within Town Centers and Neighborhood Centers as mapped in the new 2035 Comprehensive Plan, and parcels within 1,000 feet of light rail stations (excluding single-family, OS, and IG and IH zones).
    - b.** The New Development will meet the eligibility criteria listed in the following table:

<b>Residential</b>	
Single Family (1,200 square feet or more)	Ineligible
Single Family (1,199 square feet or less)	Ineligible



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Multiple Family	Eligible if in mixed use site that is built to at least 75% of max FAR
Senior Housing/Congregate Care/Nursing Home	Eligible if in mixed use site that is built to at least 75% of max FAR
<b>Commercial – Services</b>	
Bank	Eligible if in mixed use site that is built to at least 75% of max FAR
Day Care	Eligible if in mixed use site that is built to at least 75% of max FAR
Hotel/Motel	Eligible if in mixed use site that is built to at least 75% of max FAR
Service Station / Gasoline Sales	Ineligible
Movie Theater/Event Hall	Eligible if in mixed use site that is built to at least 75% of max FAR
Carwash	Ineligible
Health Club / Racquet Club	Eligible if in mixed use site that is built to at least 75% of max FAR
<b>Commercial – Institutional</b>	
School, K-12	Eligible
University / College / Jr. College	Eligible
Church	Eligible
Hospital	Eligible
Park	Eligible
<b>Commercial - Restaurant</b>	
Restaurant (Standalone)	Eligible if in mixed use site that is built to at least 75% of max FAR
Quick Service Restaurant (Drive-Though)	Ineligible
<b>Commercial - Retail</b>	
Shopping/Retail	Eligible if in mixed use site that is built to at least 75% of max FAR
Convenience Market	Eligible if in mixed use site that is built to at least 75% of max FAR
Free Standing Retail Store/ Supermarket	Eligible if in mixed use site that is built to at least 75% of max FAR
Car Sales - New / Used	Ineligible
<b>Commercial – Office</b>	
Administrative Office	Eligible if in mixed use site that is built to at least 75% of max FAR
Medical Office / Clinic	Eligible if in mixed use site that is built to at least 75% of max FAR
<b>Industrial</b>	
Light Industry / Manufacturing	Eligible if in mixed use site that is built to at least 75% of max FAR

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Warehousing / Storage	Ineligible
Self-Storage	Ineligible

- 2. The following Transportation SDC discounts apply to eligible land uses:
  - a. Central City – 33 percent reduction
  - b. Other Centers– 8 percent reduction

**E.** Graded Scale: A change in use of an existing building where the gross enclosed floor area does not exceed 3,000 square feet is fully exempt. A change in use of an existing building where the gross floor area is between 3,000 square feet and 5,000 square feet shall be assessed on a graded scale. The percentage of the rate to be assessed on the entire existing building shall be calculated by the following equation:

$$(\text{size of existing building} - 3,000 \text{ square feet}) / 2,000 \text{ square feet}$$

Examples of Graded Scale Assessment Calculations

- $(4,000 - 3,000) / 2,000 = 0.50$  Existing 4,000 square foot building assessed at 50% of the rate
- $(3,200 - 3,000) / 2,000 = 0.10$  Existing 3,200 square foot building assessed at 10% of the rate
- $(4,900 - 3,000) / 2,000 = 0.95$  Existing 4,900 square foot building assessed at 95% of the rate

- F.** Alteration permits for tenant improvements, new construction or remodeling are fully exempt where:
  - 1. no additional dwelling unit(s) or structure(s) are created;
  - 2. the use or structure will not result in an increase in additional Trips according to the City Rate Study and, if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report;
  - 3. the use or structure is of a temporary nature and is used less than 180 days in a calendar year.
- G.** The construction of accessory buildings or structures which will not create additional dwelling units or which do not create additional demands on the City’s capital improvements are fully exempt.

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- H.** For New Development which includes a mix of exempt and non-exempt forms of development, the applicable exemption(s) shall apply only to that portion of the New Development to which the exemption applies.

**17.15.060 SDC Credits, SDC Credit Transfers and SDC Reimbursements.**

(Amended by Ordinance Nos. 172677, 173121, 173437, 174936, 181322, 182652, 184756, 185195 and 188619, effective January 1, 2018.)

**A.** SDC Credits:

- 1.** The City may grant a credit against the Transportation SDC, which is otherwise assessed for a New Development, for eligible capital improvements constructed or dedicated as part of the New Development. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC Credit.

- a.** To obtain an SDC Credit, the Applicant must specifically request a credit within 180 days after building permit issuance for the New Development. In the request, the Applicant must identify the improvement(s) for which credit is sought and explain how the improvement(s) meet the requirements for a Qualified Public Improvement or other eligible improvement pursuant to Subsection 17.15.060 A.1.c. The Applicant shall also document, with credible evidence, the value of the improvement(s) for which credit is sought, as follows:

- (1)** For dedicated lands, value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction.
- (2)** For improvements yet to be constructed, value shall be based upon the anticipated cost of construction. Any such cost estimates shall be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC Credit is sought.
- (3)** For improvements already constructed, value shall be based on the actual cost of construction as verified by receipts submitted by the Applicant.

- b.** If, in the Administrator's opinion, the improvement(s) are Qualified Public Improvements, and the Administrator concurs with the proposed value of the improvement(s), an SDC Credit shall be determined by the Administrator as follows:

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- (1) For improvements on or contiguous to the New Development site, only the costs for the Over-Capacity portion of the improvement as described in the definition of Qualified Public Improvement are eligible for SDC Credit. There is a rebuttable presumption that improvements built to the City's minimum standards are required to serve the Applicant's New Development and to mitigate for transportation system impacts attributable to the Applicant's New Development.
      - (2) For Qualified Public Improvements not located on or contiguous to the New Development site, the full cost of the improvement may be eligible for SDC Credit.
    - c. The Administrator may grant credit for all or a portion of the costs of capital improvements constructed or dedicated as part of the New Development that do not meet the requirements of Qualified Public Improvements, provided that the improvements are listed on the City's TSDC Project List. In such case, the Administrator may determine what portion of the costs are eligible for SDC Credit.
    - d. For all improvements for which Credit is sought within the North Macadam Transportation System Development Charge Overlay, the Administrator shall apportion the Credit based upon the percent of the total SDC attributable to the City Rate Study and the Overlay Rate Study.
    - e. For all improvements for which Credit is sought within the Innovation Quadrant Transportation System Development Charge Overlay, the Administrator shall apportion the Credit based upon the percent of the total SDC attributable to the City Rate Study and the Innovation Quadrant Overlay Project Report.
    - f. The Administrator will provide to the Applicant a written notice of the City's decision on the SDC Credit request, including an explanation thereof, within 21 calendar days of the request being submitted.
    - g. The Applicant may seek an alternative SDC Credit calculation under Section 17.15.070. Any request for an Alternative SDC Credit calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial Credit request.
  2. Granting SDC Credits to New Development Prior to Commencing Construction of New Development. When an eligible improvement is built by a Developer prior to an Applicant applying for Building Permits for the

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New Development, the City may grant a credit for any eligible improvement(s). Credits issued are pursuant to the following requirements and conditions:

- a.** The Developer must specifically request a credit prior to the first Application for a Building Permit, but after the issuance of the Public Works Permit for the eligible improvement;
- b.** For improvements yet to be constructed, the Developer shall provide the City with an enforceable mechanism to guarantee completion of the eligible improvement, either in the form of a performance bond or other financial guarantee acceptable to the Administrator; and
- c.** The Developer shall submit written confirmation to the Administrator on the form provided acknowledging:

  - (1)** That SDC credits issued pursuant to this Section are in lieu of any other credits that could be claimed by the Developer or other Applicants on account of the eligible improvement; and
  - (2)** That it is the Developer's obligation to advise subsequent Applicants of the New Development that SDC credits associated with the eligible improvement have already been issued and that no further credits are available.
- 3.** Where the amount of an SDC Credit approved by the Administrator under this Section exceeds the amount of the Transportation SDC assessed by the City upon a New Development, the SDC Credit may not be transferred to a different development site. An SDC Credit shall be issued by the City for a particular dollar value to the Applicant or Developer. The Applicant or Developer may convey by any means and for any value an SDC Credit to any other party to be used on the initial development site.
- 4.** The City previously allowed SDC Credits to be transferred to other parties without restriction as to location. The City will continue to honor those SDC Credits issued prior to January 1, 2018.
- 5.** The City shall accept at face value any SDC Credit presented as full or partial payment for the Transportation SDC due on New Development, except that SDC credits approved in connection with New Development outside the North Macadam Renewal District and applied to New Development inside the North Macadam Urban Renewal District may only be applied to the portion of that New Development's SDCs payable under the City Rate Study, and SDC credits approved in connection with New Development outside the Innovation Quadrant and applied to New

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Development inside the Innovation Quadrant may only be applied to the portion of that New Development's SDCs payable under the City Rate Study. Neither the City nor any of its employees or officers shall be liable to any party for accepting an SDC Credit, approved and issued by the City under this Section, as payment for a Transportation SDC.

6. SDC Credits are void and of no value if not redeemed with the City for payment of a Transportation SDC within 10 years of the date of issuance.
7. It shall be a violation of this title for any person to counterfeit or forge an SDC Credit or knowingly attempt to negotiate or redeem any counterfeit or forged SDC Credit.

**B. SDC Reimbursement.**

1. If an Applicant proposes New Development on property on which there is already a use that generates at least 15 percent more Person Trips than the proposed use generates, or that generates at least 25 more Person Trips beyond what the proposed use generates, and if the Development had previously paid a Transportation SDC, then the Applicant shall be entitled to an SDC reimbursement. The SDC reimbursement shall be in the form of a credit equal to the difference between the SDC Rate of the previous use and that for the proposed use. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC reimbursement and to a particular amount of such a reimbursement.
2. To obtain an SDC reimbursement, the Applicant must request the reimbursement within 180 days after building permit issuance for the New Development and must document the basis for the request with traffic reports prepared and certified to by a Professional Engineer.
3. The Administrator shall notify the Applicant in writing of its decision on the SDC Reimbursement request and shall provide a written explanation of the decision. For all improvements for which Reimbursement is sought within the North Macadam Transportation System Development Charge Overlay, the Administrator shall apportion the Reimbursement based upon the percent of the total SDC attributable to the SDC calculated from the City Rate Study and from the North Macadam Overlay Rate Study. For all improvements for which Reimbursement is sought within the Innovation Quadrant Overlay, the Administrator shall apportion the Reimbursement based upon the percent of the total SDC attributable to the SDC calculated from the City Rate Study and from the Innovation Quadrant Overlay Project Report.
4. The Applicant may seek an Alternative SDC Reimbursement calculation under Section 17.15.070 in the same manner as for an Alternative SDC Rate

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request. Any request for an Alternative SDC reimbursement calculation must be filed with the administrator in writing within 10 calendar days of the written decision on the initial reimbursement request.

**17.15.070 Alternative Calculation for SDC Rate, Credit, Exemption, or Discount.**

(Amended by Ordinance Nos. 181322, 182652, 184756 and 188619, effective January 1, 2018.)

**A.** Pursuant to this section, an applicant may request an alternative SDC calculation, alternative SDC credit determination or alternative SDC exemption, but only under the following circumstances:

1. The Applicant believes the number of Person Trips resulting from the New Development is, or will be, less than the number of Trips established in The City Rate Study and if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report, and for that reason the Applicant's SDC should be lower than that calculated by the City.
2. The Applicant believes the City improperly excluded from consideration a Qualified Public Improvement that would qualify for credit under Section 17.15.060, or the City accepted for credit a Qualified Public Improvement, but undervalued that improvement and therefore undervalued the credit.
3. The Applicant believes the City improperly rejected a request for an exemption or discount under Section 17.15.050 for which the Applicant believes it is eligible.

**B.** Alternative SDC Rate Request:

1. If an Applicant believes the number of Trips resulting from the New Development is less than the number of Trips established in The City Rate Study and, if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report, the Applicant must request an alternative SDC rate calculation, under this section, within 180 days after building permit issuance for the New Development. The City shall not entertain such a request filed more than 180 days after building permit issuance for the New Development. Upon the timely request for an alternative SDC rate calculation, the Administrator shall review the Applicant's calculations and supporting evidence and make a determination within 21 calendar days of submittal as to whether the Applicant's request satisfies the requirements of this Section.
2. In support of the Alternative SDC rate request, the Applicant must provide complete and detailed documentation, including verifiable Trips generation data, analyzed and certified by a Professional Engineer. The Applicant's supporting documentation must rely upon generally accepted sampling

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methods, sources of information, cost analysis, growth projections and techniques of analysis. The proposed Alternative SDC Rate calculation shall include an explanation by a registered engineer explaining with particularity why the rate established in the City Rate Study and, if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report does not accurately reflect the New Development's impact on the City's transportation system

3. The Administrator shall apply the Alternative SDC Rate if, in the Administrator's opinion, all of the following are true:
  - a. The evidence and assumptions underlying the Alternative SDC Rate are reasonable, correct and credible and were gathered and analyzed by a suitable, competent professional in compliance with generally accepted engineering principles and methodologies and consistent with this Section; and
  - b. The proposed Alternative SDC rate was calculated according to a generally accepted methodology; and
  - c. The proposed alternative SDC rate more realistically reflects the Person Trips generated by the New Development compared to the rate set forth in the City Rate Study and, if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report.
4. If, in the Administrator's opinion, not all of the above criteria are met, the Administrator shall provide to the Applicant by certified mail, return receipt requested, a written decision explaining the basis for rejecting the proposed alternative SDC rate.

**C. Alternative SDC Credit Request:**

1. If an Applicant has requested an SDC Credit pursuant to Section 17.15.060 and that request has either been denied by the City or approved but at a lower value than desired, the Applicant may request an Alternative SDC Credit calculation under this section. Any request for an Alternative SDC Credit calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial credit request.

Upon the timely request for an Alternative SDC Credit calculation, the Administrator shall review the Applicant's calculations and supporting evidence and make a determination within 21 calendar days of submittal as to whether the Applicant's request satisfies the requirements of this Section.

2. In support of the Alternative SDC credit request, the Applicant must provide complete and detailed documentation, including appraisals, cost analysis or



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other estimates of value, analyzed and certified by an appropriate professional, for the improvements for which the Applicant is seeking credit. The Applicant's supporting documentation must rely upon generally accepted sources of information, cost analysis and techniques of analysis as a means of supporting the proposed Alternative SDC credit.

3. The Administrator shall grant the Alternative SDC Credit if, in the Administrator's opinion, all of the following are true:
  - a. The improvement(s) for which the SDC Credit is sought are Qualified Public Improvement(s); and
  - b. The evidence and assumptions underlying the Applicant's Alternative SDC Credit request are reasonable, correct and credible and were gathered and analyzed by an appropriate, competent professional in compliance with generally accepted principles and methodologies; and
  - c. The proposed alternative SDC Credit is based on a realistic, credible valuation or benefit analysis.
4. If, in the Administrator's opinion, not all of the above criteria are met, the Administrator shall deny the request and provide to the Applicant by certified mail, return receipt requested, a written decision explaining the basis for rejecting the Alternative SDC Credit proposal.

**D. Alternative SDC Exemption or Discount Request:**

1. If an Applicant has requested an exemption or discount under Section 17.15.050 and that request has been denied, the Applicant may request an Alternative SDC exemption or discount under this section. Any request for an Alternative SDC exemption or discount calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial credit request. Upon the timely request for an Alternative SDC exemption or discount, the Administrator shall review the Applicant's request and supporting evidence and make a determination within 21 calendar days of submittal as to whether the Applicant's request satisfies the requirements of Section 17.15.050 for exemptions and discounts.
2. In support of the Alternative SDC exemption or discount request, the Applicant must provide complete and detailed documentation demonstrating that the Applicant is entitled to one of the exemptions or discounts described in Section 17.15.050.

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3. The Administrator shall grant the exemption or discount if, in the Administrator's opinion, the Applicant has demonstrated with credible, relevant evidence that it meets the pertinent criteria in Section 17.15.050.
4. Within 21 calendar days of the Applicant's submission of the request, the Administrator shall provide a written decision explaining the basis for rejecting or accepting the request.

**17.15.080 Payment.**

(Amended by Ordinance Nos. 173437, 181322, 182389, 183447, 188619 and 189413, effective March 6, 2019.)

- A. The Transportation SDC required by this Chapter to be paid is due upon issuance of the Building Permit. However, in lieu of payment of the full SDC, the applicant may elect to pay the SDC in installments as provided in ORS chapter 223 and Chapter 17.14 of this Code. If the Applicant elects to pay the SDC in installments, a lien will be placed against the property that is subject to the SDC, and that lien will be given first priority as provided by statute. The Applicant's election to pay the SDC by installments shall be memorialized in an SDC Deferral or Installment Agreement entered into by the Applicant and the City on a form provided by the City, and which may provide for the deferral of payments as set forth in Chapter 17.14 of this Code. In any event, the Applicant shall either pay the SDC in full or enter into an SDC Deferral or Installment Agreement as provided in this section, before the City will issue any building permits.
- B. Upon written request of the Bureau of Transportation, the Revenue Division is authorized to cancel assessments of SDCs without further Council action, where the New Development approved by the Building Permit is not constructed and the Building Permit is cancelled.
- C. For property that has been subject to a cancellation of assessment of SDCs, a new installment payment contract shall be subject to the Code provisions applicable to SDCs and installment payment contracts on file on the date the new contract is received by the City.
- D. The City of Portland shall not be responsible for, nor have any responsibility to honor or enforce agreements made by private parties regarding the payment or collection of SDC assessments.

**17.15.090 Refunds.**

(Amended by Ordinance Nos. 181322 and 188619, effective January 1, 2018.) Refunds may be given by the Administrator upon finding that there was a clerical error in the calculation of the SDC. Refunds shall not be allowed for failure to timely claim credit or for failure to timely seek an Alternative SDC Rate calculation. The City shall refund any SDC revenues not expended within ten (10) years of receipt.

**17.15.100. Dedicated Account and Appropriate Use of Account.**

(Amended by Ordinance Nos. 181322, 182652, 184756 and 188619, effective January 1, 2018.)

A. There is created a dedicated account entitled the “SDC Account.” All monies derived from the SDC shall be placed in the SDC Account. Funds in the SDC Account shall be used solely to provide the TSDC Project List capacity increasing improvements according to the TSDC Project List as it currently exists or as hereinafter amended, and eligible administrative costs. All monies derived from the North Macadam Overlay Rate Study shall be placed in a sub-account. The monies in the Overlay sub-account shall only be spent on projects serving the North Macadam urban renewal area. All monies derived from the Innovation Quadrant Overlay Project Report shall be placed in a sub-account. The monies in the Overlay sub-account shall only be spent on projects serving the Innovation Quadrant. In this regard, SDC revenues may be used for purposes which include:

1. project development, design and construction plan preparation;
2. permitting;
3. right-of-way acquisition, including any costs of acquisition or condemnation;
4. construction of new through lanes for vehicular, transit, or bicycle use;
5. construction of turn lanes;
6. construction of bridges;
7. construction of drainage and stormwater management and treatment facilities in conjunction with new roadway construction;
8. purchase and installation of traffic signs and signals;
9. construction of curbs, medians and shoulders;
10. relocating utilities to accommodate new roadway construction;
11. construction management and inspection;
12. surveying and soils and material testing;
13. construction of Accessways, bicycle facilities, Pedestrian Connections and Walkways;
14. landscaping;

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15. bus pullouts, transit shelters, fixed rail transit systems and appurtenances;
  16. costs associated with acquisition of rolling stock;
  17. demolition that is part of the construction of any of the improvements on this list;
  18. payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide money to construct or acquire transportation facilities; and
  19. direct costs of complying with the provisions of ORS 223.297 to 223.314, including the costs of developing system development charges methodologies and providing an annual accounting of system development charges expenditures.
- B.** Money on deposit in the SDC Accounts shall not be used for:
1. any expenditure that would be classified as a maintenance or repair expense; or
  2. costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or
  3. costs associated with maintenance of rolling stock.

**17.15.110 Challenges and Appeals.**

(Amended by Ordinance Nos. 173121, 181322 and 188619, effective January 1, 2018.)

- A.** Any resident of Portland or any person with interest may challenge the expenditure of SDC revenues by filing a challenge to the expenditure with the Administrator within two years after the date of the disputed SDC revenue expenditure. The fee for filing such a challenge shall be \$250.
- B.** Except where a different time for an Administrator's determination is provided in this Chapter, all determinations of the Administrator shall be in writing and shall be delivered to the Applicant within 21 calendar days of an Application or other Applicant request for an Administrator determination. Delivery of such determination shall be deemed complete upon the earlier of actual delivery to the Applicant or upon deposit by the Administrator in the mail, first class postage prepaid, addressed to the address for notice Applicant has designated in the Application. Such determination shall be accompanied by a notice of the Applicant's right to appeal and an outline of the procedures therefore.
- C.** Any Applicant not content with an Administrator's determination may appeal that determination to the Code Hearings Officer as provided in Chapter 22.10 of this Code. Notwithstanding any other provisions of this Code, there shall be a non-

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refundable fee of \$250 for any appeal pursuant to this subsection. Such fee must accompany any such appeal and no such appeal shall be considered filed or received until such fee is paid in full.

- D.** The City shall withhold all permits and other approvals applicable to the Applicant's property of the New Development pending resolution of all appeals under this Chapter unless the SDC is paid in full or the Applicant provides, for the pendency of the appeal, a financial guarantee or security for the charge in a form acceptable to the City Attorney.

**17.15.120 City Review of SDC.**

(Amended by Ordinance Nos. 181322, 182652, 184756 and 188619, effective January 1, 2018.)

- A.** No later than every two (2) years as measured from initial enactment, the City shall undertake a review to determine the total SDCs assessed and collected by transportation district and the total SDCs expended and programmed by transportation district and project; to determine that sufficient money will be available to help fund the TSDC Project List identified capacity increasing facilities; to determine whether the adopted SDC Rate keeps pace with inflation; to determine whether the TSDC Project List should be modified; and to ensure that such facilities will not be overfunded by the SDC receipts.
- B.** In the event that during the review referred to above, it is determined an adjustment to the SDC is necessary for sufficient funding of the TSDC Project List improvements listed in the City Rate Study, North Macadam Overlay Rate Study, or the Innovation Quadrant Overlay Project Report or to ensure that such TSDC Project List improvements are not overfunded by the SDC, the City Council may propose and adopt appropriately adjusted SDCs.
- C.** The City Council may from time to time amend or adopt a new City Rate Study by resolution.

**17.15.130 Time Limit on Expenditure of SDCs.**

(Amended by Ordinance No. 188619, effective January 1, 2018.) The City shall expend SDC revenues within ten (10) years of receipt, based on the priorities in the TSDC Project list.

**17.15.140 Implementing Regulations; Amendments.**

(Amended by Ordinance Nos. 171698, 181322 and 188619, effective January 1, 2018.) The City Council delegates authority to the Director of Transportation to adopt administrative rules and procedures necessary to implement provisions of this Chapter including the appointment of an SDC program Administrator. All rules pursuant to this delegated authority shall be filed with the Office of the City Auditor and be available for public inspection.

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**17.15.150 Amendment of TSDC Project List.**

(Amended by Ordinance Nos. 182652 and 188619, effective January 1, 2018.) The City may, by resolution, amend its TSDC Project List as set forth in the City Rate Study, North Macadam Overlay Rate Study, or the Innovation Quadrant Overlay Project Report from time to time to add projects the City deems appropriate.

**17.15.160 Severability.**

(Amended by Ordinance Nos. 181322 and 188619, effective January 1, 2018.) The provisions of this Chapter are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any word, definition, clause, section or provision of this Chapter is declared unconstitutional or invalid for any reason or cause, the remaining portion of this Chapter shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. In the event a definition is held to be invalid or is severed, the defined word or term shall be deemed to have the meaning given to that word or term under Oregon law if Oregon law contains such a definition. If there is no established definition of the word or term under Oregon law, the word or term shall have its ordinary dictionary meaning. It is hereby declared to be the Council's express legislative intent that this Chapter would have been adopted had such an unconstitutional or otherwise invalid provision not been included herein.

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- Q.** “**Rate**” means the multiplication factor used to generate a connection or user charge based on cost-per-unit proxies such as gallons of discharge, square feet, or feet of road frontage. Rates can be multiplied by other factors
- R.** “**Ratepayer**” means a person who has the right to possession of a property and:
1. Who causes or permits the discharge of sanitary sewage into the public sewer system, or
  2. Whose use of the property directly or indirectly benefits from stormwater management services provided by the City.
- S.** “**Rolling Average**” means the average of the 10 most recent monthly averages of representative City- and/or self-monitoring events for the purpose of calculating an extra-strength sewage charge rate, unless another period is approved by the Director.
- T.** “**Sanitary Sewage**” means wastewater discharged to the public sewer system by permit or other approval of the Director and includes, but is not limited to, domestic wastewater, industrial and commercial process wastewater and contaminated stormwater.
- U.** “**Sanitary Sewer Conversion Charge**” means the charge to convert a nonconforming sewer, as that term is defined in Chapter 17.33. This charge is assessed in lieu of line and branch connection charges.
- V.** “**Sanitary System Development Charge (SDC)**” means a connection charge for new or increased demand of the public sewer system. This charge reimburses the City for an equitable portion of the costs of major sewer facilities such as wastewater treatment facilities, pump stations and interceptor sewers.
- W.** “**Seed**” means a population of microorganisms capable of oxidizing biodegradable organic matter that is added to a wastewater sample as part of the analysis of biochemical oxygen demand (BOD). Only seed prepared using primary effluent from the City’s Columbia Boulevard Waste Water Treatment Plant may be used for this analysis.
- X.** “**Stormwater Management Facility**” means a facility or other technique used to reduce volume, flow rate, or pollutants from stormwater runoff. Stormwater facilities may reuse, collect, convey, detain, retain, or provide a discharge point for stormwater runoff.
- Y.** “**Stormwater Management Services**” means services and actions used to collect, convey, detain, retain, treat or dispose of stormwater. These services include managing stormwater runoff from public streets, mitigating flooding, preventing erosion, improving water quality of stormwater runoff, collecting and conveying

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stormwater runoff from private properties when runoff exceeds the capacity of private facilities to manage stormwater onsite, mitigating impacts to natural habitats caused by stormwater runoff, and protecting properties and natural habitats from hazardous soils and materials that are discharged from private properties and public rights-of-way.

- Z.** “**Stormwater System Development Charge (SDC)**” means a connection charge for new or increased demand of the public stormwater and drainage system. This charge reimburses the City for an equitable portion of the costs of public stormwater management facilities such as collection and conveyance facilities, detention and disposal facilities, and water pollution reduction facilities.
- AA.** “**Temporary Connection**” means a connection to the sanitary sewer system where the duration of the connection is less than three years and connection and disconnection occur only once. Connections made to the public sewer, stormwater or drainage system made for the purpose of environmental remediation will not be considered a temporary connection unless approved by the Director.
- BB.** “**Temporary Structure**” means a structure that is separate and distinct from all other structures and is created and removed in its entirety within 3 years, including all impervious area associated with the structure.
- CC.** “**Total Suspended Solids (TSS)**” means the total suspended matter that either floats on the surface or is suspended in water or wastewater and that is removable by laboratory filtering in accordance with 40 CFR 136 Table B.
- DD.** “**Transportation SDC Study**” means the transportation system development methodology established by Chapter 17.15.
- EE.** “**User Charge**” means a charge paid by a ratepayer for the use of public sanitary or stormwater management services. User charges are calculated on a routine basis such as monthly or annually.

**17.36.030 Annual Rate Ordinance.**

Charges authorized by this Chapter pay for the City to provide sewer and stormwater management services. Charges are calculated based on true costs of service or may be based on rates per unit volume or usage or area served. Charges and rates are established via a BES rate ordinance adopted annually by the City Council. Charges are effective on a fiscal-year basis (July 1 to June 30 of the following year).

**17.36.040 Sewer System Connection Charges.**

(Amended by Ordinance Nos. 186403, 189050, 189323, 189506, 189750 and 190381, effective April 30, 2021.) Connection charges are for establishing a new connection, new use or expanding existing uses of the public sewer and City stormwater facilities. A property may be subject to one or more of these charges depending on the connections made.



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- A.** The methodology for calculating connection charges is set forth in the Sanitary and Stormwater System Development Charge Methodology administrative rules (PPD item ENB – 4.05).
  
- B.** Payment is required upon issuance of a building or connection permit or, for connections related to City sewer extension projects, prior to or at the time a property physically connects to the public system.
  - 1.** Prepayment. A person may pre-pay connection charges by providing a letter of intent that includes the parcel description and address, if applicable, and the estimated number of EDUs or impervious area. The Director may grant a refund at any time for excess charges at the rate in effect at the time of building permit or connection. Prepayment of connection charges does not guarantee reserved system capacity or usage of City sewer or drainage services. The Director may accept a cash or surety bond posted by the owner of the occupancy in lieu of immediate payment of the charge if:
    - a.** The appropriate number of EDUs for the occupancy cannot be determined before the permit is issued; or
    - b.** The Director has determined the number of equivalent dwelling units for the occupancy but the applicant does not agree with the Director's determination.
  
  - 2.** True-up. Within 2-1/2 years after connection, the Director will determine the number of EDUs and the amount of the SDCs due, using water consumption records or other evidence. Upon notice, the applicant must pay the SDCs within 60 days or the bond will be forfeited upon approval by the Director and the Commissioner-in-Charge.
  
  - 3.** Deferral of connection charges. Users who qualify to defer SDC or other sewer connection charges but who want to connect to the system can defer payment of connection charges until such date as the Director may specify as authorized by ordinance. The charge in effect at the time of connection is applied at time of payment. Deferred connection charges are delinquent when not paid after a period of 90 days from the date due and bear interest and penalties as set forth in this Chapter. Users may convert the deferral to an installment payment loan. The Director will establish rules, procedures and forms to govern the administration of the deferral program.
  
- C.** Sanitary System Development Charge (SDC).
  - 1.** A person must pay sanitary SDCs for:
    - a.** Connecting a building property to a sanitary or combined sewer;

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- b. Increasing sewer usage by alteration, expansion, improvement, or conversion of a building already connected to the sewer; or
      - c. Increasing flow to a sanitary or combined sewer by causing contaminated stormwater or groundwater to enter the sewer.
    - 2. Sanitary SDCs are calculated based on the number of EDUs.
      - a. EDUs for nonresidential uses will be calculated from Plumbing Fixture Units (PFUs), as defined by the Oregon Plumbing Specialty Code in effect at the time of the permit application.
      - b. Industrial wastewater. Industrial wastewater dischargers are subject to review of sewer usage within two years of occupancy. EDUs are calculated from the highest 6-month average of metered usage over that period. The user of record is responsible for EDUs in excess of those paid at the issuance of the permit.
      - c. EDUs for groundwater or other permitted discharges to sanitary or combined sewer are calculated based on estimated discharge volume.
    - 3. Temporary use. Temporary structures and connections are not subject to sanitary SDCs. However, sanitary SDCs, including penalties and interest charges, become due and payable for structures or connections that are not removed within three years. Temporary structures and temporary connections are not exempt from paying user charges, including extra strength charges.
    - 4. Credits. Sanitary SDC credits may be rewarded for:
      - a. Prior sewer connections. Full credit may be awarded for each EDU purchased and in existence prior to its demolition or disconnection.
      - b. Prior sewer user charge payments. A credit of \$21 per EDU for each year of sanitary sewer user charge payments from 1949 to 1991 may be awarded for buildings not demolished or disconnected prior to July 1, 1971.
- D. Sanitary Line Charge.
  - 1. Residential Property. The line charge is based on the charge rate as established by City Council and the square footage of that portion of the property receiving service that lies within 100 feet of the public right-of-way or easement where a sewer has been constructed or is planned. Such street or easement line is considered as continuing 100 feet beyond the end of the main line sewer or beyond where the sewer turns away from the

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property. Owners of flag, oddly shaped or landlocked properties must pay at least a minimum line charge based on an assumed minimum lot size of 1,200 square feet.

2. Non-Residential Property. The line charge is based on the charge rate as established by City Council and the square footage of the portion of the property receiving service that lies within 300 feet of the public right-of-way or easement where a sewer has been constructed or is planned. Such street or easement line is considered as continuing 300 feet beyond the end of the main line sewer or beyond where the sewer turns away from the property. Owners of flag, oddly shaped or landlocked properties must pay at least a minimum line charge based on an assumed minimum lot size of 3,600 square feet.
3. When an adjacent, developed lot, as defined in Title 33 of this Code, is under the same ownership and used in conjunction with a neighboring, developed lot that is connected to the sewer, the adjacent lot is charged a line charge for its frontage as described above. This condition includes but is not limited to improved parking lots, and lots with garages or landscaping.
4. Lack of gravity service. When a sewer is constructed that can not provide full gravity service, the line charge is reduced by:
  - a. 50 percent if the property has gravity service to the first floor only and must install a pump for the basement; and
  - b. 75 percent if no gravity service is available for the first floor and the property must install a pump.

The adjustment may not exceed the costs associated with the installation of a pump system.

- E.** Branch charge. BES collects a branch charge for providing a branch sewer to the property, but only if the property was not assessed for the branch or its equivalent previously.
1. Additional charges may be assessed to cover the City's design and construction costs for branches that were requested by the user but not ultimately used. These charges must be paid before the property may be connected to the public system.
  2. BES collects a branch charge for City adoption of private nonconforming sewer lines located within the public right-of-way as provided under Subsection 17.32.055 B.2.

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- 3.** Sampling manhole charge. When a property is subject to an extra strength charge as described in Subsection 17.36.060 A., the user may request that the City install a sampling manhole on the branch. The user must pay all direct and indirect costs of installing the manhole.
- F.** Sewer Conversion Charges. A property owner must pay sanitary sewer conversion charges according to the following two categories and as determined by administrative rule at the time the City provides a new sewer connection or when the property owner requests a permit for a new conforming sewer connection.

  - 1.** Residential Conversion Charges. Single-family, duplex, three-plex, or four-plex properties are assessed the residential sewer conversion charge, which is the branch charge in place at the time of connection.
  - 2.** Commercial Conversion Charges. All multifamily, commercial, mixed-use, industrial, and institutional properties are assessed according to administrative rule and are calculated to recover costs for City sewer extension projects that serve the property. The commercial conversion charge replaces line, branch, system development and connection charges in this context.
- G.** Stormwater System Development Charge. The stormwater SDC consists of two parts: an onsite charge, reflecting use of public facilities handling stormwater flows from individual properties; and an off-site charge, reflecting use of system facilities handling stormwater flows from rights-of-way.

  - 1.** The onsite charge is calculated by multiplying the net new impervious area by a rate per thousand square feet of impervious area. In the case of groundwater flows directed into stormwater facilities, the charge is calculated based on the amount of impervious area necessary to produce an equivalent flow given average rainfall.
  - 2.** The offsite charge is calculated in two parts: local access, and use of arterial streets.

    - a.** The local access portion of the offsite charge is calculated by multiplying the length of the property's frontage by a per lineal foot rate. For properties on which there is existing development and for which a stormwater SDC has previously been paid, the local access portion will be waived.
    - b.** The arterials portion of the offsite charge is calculated by multiplying net new vehicular trips by a rate per vehicular trip. Vehicular trips for a particular development are determined by the Transportation SDC Study, the ITE Manual, or an alternative study acceptable to the Bureau of Transportation.

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3. Credits. Credits may be granted for the onsite portion of the stormwater SDC in one of the following two cases:
  - a. Credits of up to 100 percent of the onsite portion of the stormwater SDC may be granted for areas draining, either in whole or in part, directly to the Willamette or Columbia Rivers or to the Columbia Slough. Only discharges that do not pass through City-financed stormwater facilities and meet all applicable water quality standards are eligible for credits. Credit applications must adequately demonstrate the satisfaction of these conditions. Development using stormwater facilities built under a public works permit that convey stormwater runoff directly to the Willamette or Columbia Rivers or the Columbia Slough without passing through other City stormwater facilities is eligible for up to 100 percent credit for the onsite charge.
  - b. A 100 percent credit may be granted for areas draining to facilities providing effective on-site retention for a 100 year storm event with a safety factor of two, defined as a rainfall intensity of 8.28" per hour per square foot of impervious area. Those applying for this credit must provide adequate documentation to demonstrate this additional retention capacity, including testing of infiltration facilities, and that on-site flows are directed to these facilities.
  - c. No credits may be granted for the offsite portion of the stormwater SDC.
- H. Partial and Full Exemptions. Certain structures and uses are exempt from sanitary and stormwater SDCs to the extent provided by Section 17.14.070 of this Code.

**17.36.050 User Charges.**

(Amended by Ordinance No. 187926, effective September 2, 2016.) Sewer user charges are established and made effective as follows:

- A. Timing. User charges are calculated on a routine basis, such as monthly, quarterly or annually.
- B. Sanitary Sewer Services. The City calculates and collects user charges for sanitary sewer services from ratepayers who cause or permit the discharge of sanitary sewage from a property in their possession into the public sewer system. Charges for sanitary sewer services may include sanitary sewer volume charges, account service charges and penalties for non-payment or late-payment of sewer charges and other charges:
  1. Residential dwellings. Residential dwelling units are assessed based on the volume of sewage discharged to the sanitary sewer system. The Director

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may elect to use water consumption as the basis of this calculation. To avoid including irrigation water usage in this calculation, the Director will establish a procedure that allows for irrigation credit. When a water meter reading is not available, a sanitary sewer discharge estimate will be made based on the ratepayer class of characteristics per administrative rule.

2. Non-residential occupancies. The City calculates charges for commercial, industrial, and all occupancies based on the amount of incoming water volume as measured by the City water meter, information from the water district serving the property, or by an approved meter that measures actual sanitary discharge volume.
  3. Combined dwelling units and other. Where dwelling units and other occupancies use the same water supply, the City calculates charges for sanitary sewer service in the same manner as those for commercial, industrial, and all occupancies other than residential.
  4. Estimating wastewater discharges for mobile dischargers. User charges are applicable to all wastewater discharges to the City sewer system regardless of the source. In unusual circumstances where the wastewater is not from a fixed location, such as ships, barges, houseboats and other movable facilities or dwelling units, a method of determining the volume provided by the user may be used if approved by the Director. Otherwise, the Director estimates the volume of water to which user charges apply and this determination is final.
  5. In areas served by separated storm and sanitary sewer systems, the City may accept the discharge of contaminated stormwater into the sanitary sewer. The discharge volumes will be determined by the amount of impervious area producing the contaminated stormwater plus the average rainfall or a discharge meter. The discharge will be charged based on sanitary sewer volume rates.
- C. In cases where water is supplied solely from a private source or sources such as wells, springs, rivers or creeks, or from a partial supply in addition to that furnished by the City, residential ratepayers are assigned the class average volume for their alternative source water use. Commercial ratepayers must meter the private supply either as an inflow or a discharge in conformance to the provisions of this Chapter.
- D. Meters required. Any meter or method used for calculation of a adjusted charge or credit is subject to the administrative or special meter charge for each such meter or method. The property owner is responsible for purchasing, installing, maintaining, and calibrating the private meter and must comply with all provisions in this Title. Meters must be approved by the Director as to type, maintenance, calibration schedule, size and location before installation.

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1. All meters must register in cubic feet.
  2. Meters installed on water systems supplied from private or public sources and used to measure cooling, irrigation, evaporation or product water for the purpose of obtaining reduced sewer charges must be connected in such a manner as to register only that portion of the water supply used for that purpose.
  3. Meters placed below the ground or pavement surface must have the top of the meter not more than 8 inches below the surface and must be enclosed in a standard water meter box and cover as used by the Portland Water Bureau. Meters located above the ground or floor level must not be more than 3-1/2 feet above the ground or floor level.
  4. All meters must be located in an area that is freely accessible at all times and that, in determination of the Director, does not present a danger to City employees.
  5. The owner of a meter must implement a program to ensure meter accuracy. The program should consider the manufacturer's periodic maintenance and calibration requirements. All maintenance and calibration records must be retained and available for review by City personnel.
  6. Failure of the owner, the owner's lessee, or others acting under the owner to maintain the meter in good working order constitutes a violation of this Chapter. During the period of the meter's non-operation and pending the proper repair and reinstallation of the meter, the account may be billed on the basis of three times the normal water usage or in such an amount as deemed proper by the Director.
- E.** Credits. A ratepayer must submit a written request for establishing reduced charges or credit for water not subject to sewer user charges. Requests must be received prior to any use of water that may be subject to reduced or special charges, and prior to installation of any meter. A request for credit must include a meter maintenance plan and a mechanical plan showing the proposed meter location, access route to the meter, the water supply or source, the cooling or other water-using equipment, and the discharge point. Reduced charges or credits will not be given for any period prior to the date of approval. No reduced sewer charge may be given until the Director has approved the request.
1. Water not subject to sewer user charges. The Director may exempt from sewer user charges water that is used in a manufactured product such as ice, canned goods or beverages; or for water lost by evaporation or used in irrigation. To calculate the quantity of exempt water, a meter must be installed to the satisfaction of the Director.

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- 2.** Clean water discharges. When a non-residential ratepayer requests approval for a temporary or permanent discharge of clean water to a public sewer system, the discharger must install meters or provide other verifiable and quantifiable information using a method approved by the Director to determine the volume of water to be discharged. Water such as that used for refrigerating or cooling purposes or condensed from steam and that has been put to no other use may be discharged into the sanitary system as clean water.

    - a.** Clean water to storm sewer or other public drainage systems. Charges are calculated based on the clean water discharge-to-storm rate multiplied by the measured or estimated volume of water discharged to a public storm sewer or other public drainage system.
    - b.** Clean water to sanitary or combined sewer systems. Charges are the same for other sewer uses and are calculated based on the non-residential sewer services rate multiplied by the measured or estimated volume of water discharged to a public sanitary or combined sewer.
  - 3.** Conditions for revoking reduced charges or credits. The following conditions will nullify discounts and reinstate full user charges until such time as the owner or person in charge of the premises formally notifies the Director that the situation has been rectified.

    - a.** Defective discharge meters. During the period of the meter's non-operation and pending the proper repair and reinstallation of the meter, the account may be billed for the full amount of water passing through the supply meter and up to three times the supply flow provided by non-City resources. At no time may a reduced charge or credit be allowed retroactively, or for a period in which the meter is defective.
    - b.** Failure to report. Failure to report on quantities of water subject to reduced charge or credit for 2 consecutive months is a violation of this Chapter. User charges must be paid on the full amount of water passing through the supply meter and up to three times the supply flow provided by non-City resources during these 60 days. At no time may a reduced charge or credit be allowed retroactively, or for a period in which no reports were submitted.
- F.** Stormwater Management Services. Ratepayers who receive a direct or indirect benefit from City stormwater management services are subject to the user charge. The ratepayer identified on the City utility billing account is assumed to be the user of stormwater management services and responsible for the user charge. If the



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property is not subject to other City utility charges, the Director will determine the ratepayer responsible for the user charge.

- 1.** Billing Components. The user charge consists of the following components:
  - a.** Stormwater On-Site. The user rate for the on-site component is 35 percent of the stormwater management services rate.
  - b.** Stormwater Off-Site. The user rate for the off-site component is 65 percent of the stormwater management services rate.
- 2.** Basis for charge. User charges are calculated based on the user's proportionate share of City stormwater management services as estimated by the amount of impervious area on the user's property. Unless the property has been measured to the satisfaction of the Director, the property's impervious area is assumed to be equal to the average impervious area for the user's class. The following areas are included in a property's impervious area calculation for billing purposes: roofs; paved areas such as, but not limited to, driveways, parking lots, and walkways; and areas of the property that are covered by porous pavement. The following areas are not included in a property's impervious area calculation for billing purposes: rights-of-way that have been dedicated to the public and over which the City exercises regulatory jurisdiction and management; outdoor recreation areas owned by governmental bodies that are available to the general public, excluding parking lots and buildings; and areas covered by compacted soils and compacted gravels
- 3.** Dwelling units. The City uses the following class averages of impervious areas for calculating user charges for dwelling units located on a single property or tax lot:
  - a.** One and Two Dwelling Units - 2,400 square feet
  - b.** Three Dwelling Units - 3,000 square feet
  - c.** Four Dwelling Units - 4,000 square feet
- 4.** Properties other than dwelling units or with five or more dwelling units. The City calculates the ratepayer's use of stormwater drainage system services based on the amount of impervious area on the site.
- 5.** Clean River Rewards. Clean River Rewards discounts are offered to increase ratepayer control over stormwater management charges and to advance City environmental goals. The program provides economic incentives, technical assistance, and environmental education to ratepayers

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who control and manage the quality and quantity of stormwater runoff on their private property.

- G.** Portland Harbor Superfund Charge. The City calculates and collects user charges for the Portland Harbor Superfund Program. If the property is not subject to other City utility charges, the Director determines the ratepayer responsible for the Portland Harbor Superfund charge. This user charge appears as a line item on the City utility bill, and is the sum of the following two rate calculations:
- 1.** Sanitary Volume. This portion of the charge is the sanitary sewer service user charge multiplied by the Portland Harbor Superfund Sanitary Volume rate.
  - 2.** Impervious Area. This portion of the charge is the stormwater management services charge multiplied by the Portland Harbor Superfund Impervious Area rate.

**17.36.060 Special User Charges.**

(Amended by Ordinance No. 186902, effective December 26, 2014.) The following charges are applicable to only certain user groups and are assessed in addition to other user charges. Users may be subject to one or more of these charges. The current charge rates are provided on the BES annual rate ordinance.

- A.** Extra-Strength Charge. Wastewater discharged to a City sewer, either directly or indirectly, is subject to an extra-strength charge if the discharge has a BOD or TSS in excess of concentration thresholds determined by the Director. The Director may establish concentration thresholds for other pollutants that are subject to extra-strength charges. Payment of an extra-strength charge does not excuse the discharger from complying with all other applicable provisions of Chapter 17.34 of this Code.
- 1.** Calculation of Charges. Extra-strength charges are based on the following:
    - a.** The concentration of pollutants in excess of thresholds established by the Director and adopted by Council.
    - b.** The total metered water supplied to the premises. The extra-strength charge may be reduced where commercial or industrial wastewater is discharged separately from domestic sanitary wastes or cooling waters and the user provides a meter or other measurement method acceptable to the Director. For multiple tenant buildings with shared water service, extra-strength charges will be apportioned by class of individual tenant with an estimated volume as a portion of the total sewer bill.
  - 2.** Methodologies for calculating extra-strength charges.

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- a.** Measured Rolling Average. This method bases a user's rate on the average concentration of the ten most recent monthly concentration averages. Rolling averages are initiated with samples taken over a 5-day period unless otherwise specified by the Director. Samples must be taken daily at an approved sampling manhole or other location as determined by the Director.
- (1)** Self-monitoring. A user may be authorized to submit monitoring data as a basis for rate calculations. Wastewater samples must be representative of the discharge.
- (a)** Reports. Self-monitoring reports must include sufficient information to calculate the extra-strength rolling average.
- (b)** All analytical data submitted for rate calculations must be in accordance with procedures approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto as published in the Federal Register.
- (c)** Laboratories analyzing for BOD must use approved seed in their analysis. Laboratory reports must indicate the use of approved City seed in order for the data to be used in extra-strength charge calculation. The Director may require a split of any independent sample collected by the user for the purpose of extra-strength charge calculation.
- (2)** Additional sample requests. Any user subject to the measured rolling average method may request that BES collect additional samples. Requests must be submitted in writing. Full payment of re-sampling charges must be received prior to BES incorporating sampling results into the rolling average.
- (a)** Split samples. The Director may allow samples collected by the City for the purpose of determining an extra-strength sewage charge to be split with the user, as provided for in administrative rule.
- (3)** Non-routine Discharges. The Director may allow the exclusion of monitoring data from samples collected during a non-routine discharge from use in calculating a ratepayer's

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rolling average, using criteria defined in administrative rules.

- b. Extra-strength class averages. The Director may establish a rate structure for users to be billed extra-strength charges based on the average discharge concentration of their business class. Businesses subject to class-average extra-strength charges will be eligible for rate reductions based on the verifiable implementation of approved best management practices, using criteria established by administrative rule.
    - c. Other charge computations. If unusual effluent conditions make calculation by the measured rolling average or the extra-strength class-average method difficult or impossible, the Director may implement another method of sampling and computation. The Director may establish custom rates based on site-specific conditions per the criteria in administrative rule.
  3. Billing. Extra-strength charges are either included with the City utility bill or are billed separately by the City Auditor. These charges are enforceable and collectable in the same manner as water and sewer user charges. Failure to pay pursuant to Title 21 of this Code may be cause for termination of water and sewer services.
  4. Minimal charges; suspension. The Director may establish a minimum revenue threshold for periodic extra-strength charges using the rolling average method. The billing for all accounts with periodic extra-strength sewage charges below this minimum revenue threshold will be suspended or changed to the class average method until they increase beyond the revenue threshold again.
  5. Adjustments. The Director may adjust a user's charges where applicable at any time in accordance with the most recent monitoring analysis.
- B. Building plan review charges. Charges are collected by the Bureau of Development Services on behalf of BES for the review of building plans and land use proposals to ensure compliance with requirements for sewage disposal, stormwater management, pollution prevention and source controls, and for determining routes of service.
- C. Charges for Adoption of Nonconforming Sewer Lines. An owner of a property connected to the public sewer by a nonconforming sewer line in a public right-of-way may request that the City adopt the nonconforming line under Subsection 17.32.055 B.2. and associated administrative rules. Adoption charges will be assessed as provided by Subsection 17.36.040 A.3.d. unless the nonconforming line meets City standards as described in administrative rule.

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- D.** Industrial Wastewater Permit Charges. Permitted users as identified in Chapter 17.34 must pay industrial wastewater permit charges based on the level of permit complexity, regulatory history, and amount of BES administrative oversight. Charge components are scaled based on whether an industrial discharger is a categorical industrial user, significant industrial user, or neither. Charges are calculated from the actual costs of BES staff to provide such services as data entry, permit administration, inspection, and permit processing for industrial users.
- E.** Batch Discharge Charges. Users desiring City authorization for one-time discharges from their site must pay the batch discharge review charge. This charge reimburses the City for site research, system capacity, and pretreatment evaluation for requested discharges.
- F.** Discharge Authorization (DA) Charges. A user seeking City authorization for on-going discharges from their site or typical business activity must pay a discharge authorization review charge. This charge reimburses the City for site research, system capacity, and pretreatment evaluation for requested discharges. DA charges will be assessed on a sliding scale depending on the level of review necessary for submittals provided or required to approve the DA request.
- G.** Sampling Charges. A discharger requesting City sampling and analysis assistance to support discharge authorization, permit, or other compliance activities will receive a specific cost estimate from BES.
- H.** Sub-Meter Program Fees, Charges and Credits. A commercial ratepayer may elect or be directed to participate in the Sub-Meter Program to accurately assess sewer and stormwater management service user fees. A program participant is required to pay both the Water and the BES special meter charges for each meter in use, which are assessed on each billing cycle. Meter results will provide either credits or additional charges against the user's bill as described in the Sub-Meter Program administrative rules PPD item ENB-4.32.

**17.36.070 Service Outside the City.**

- A.** The City charges for the use of sanitary sewer and stormwater management services from properties outside the City based on annually established rates.
- B.** Determination of whether a property is outside the City. The Director determines whether any residential or business, industrial, commercial, institutional or other property is inside or outside of the City limits. For purposes of this Section, the property is outside of the City limits where 66.7 percent or more of the assessed valuation of the property is recorded in the records of the County Assessor as lying beyond the City limits.
- C.** The Director may require and enter into agreements for and on behalf of the City permitting connection and providing sanitary sewer or stormwater management

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services to commercial and industrial properties outside the City when the Director finds such service feasible and appropriate.

**17.36.080 Collection of Charges.**

- A.** All charges for services provided to a property are the responsibility of the ratepayer benefiting from or using City services at that property. This responsibility will attach to the ratepayer's subsequent City utility accounts and applies whether the ratepayer is the sole user of the services or furnishes them in turn to third parties.
- B.** Billing due dates. User charges are computed monthly, bimonthly, or quarterly, coincident with user charges for water service .
  - 1.** When billed with the utility bill, user charges are due and payable on the date provided on the water service bill. The City may prorate user charges for a portion of a utility billing period based on the effective date of the sanitary sewer or stormwater management service.
  - 2.** For ratepayers who do not receive water service from the City, user charges will be computed and billed monthly, bimonthly, or quarterly.
- C.** Collections. Upon determination by the Director that a charge is past due or otherwise delinquent, the City may avail itself of the full range of actions authorized by City Code.
- D.** Discontinuation of services. Charges not paid in accordance with the due date in the bill or invoice may be subject to water shutoff pursuant to Title 21 of this Code. The Director, with approval of the Commissioner-in-Charge, may also discontinue sanitary sewer service by disconnecting and plugging the sewer service line to properties whose delinquent user charges exceed \$10,000 for a period of 90 days or more. Ratepayers and property owners must be notified in writing of the City's intent to disconnect the sewer not less than 30 days prior to disconnection. Payment of the delinquent amount, including outstanding user charges or charges, accrued interest and collection costs, and all costs associated with disconnecting and reconnecting the sewer line, must be received by the City before the property may be reconnected to the sewer. The delinquent amount remains the responsibility of the ratepayer. In the event a ratepayer who is not the owner terminates their lease and moves from a disconnected property before reconnection has occurred, the City will reconnect the property and collect the cost as well as all delinquent amounts from the ratepayer who originally incurred the charges.

**17.36.090 Adjustment of Bills.**

(Amended by Ordinance Nos. 187926 and 189506, effective June 21, 2019.)

- A.** The Director may authorize an adjustment of up to \$500 to a ratepayer's utility account when it is deemed necessary for the proper conduct of the business of the Bureau to do so.

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- B.** When the Director determines that a billing error has occurred, the Director may authorize an adjustment of the ratepayer's utility account for the period of the error, not to exceed 3 years from the date the error is identified.
  
- C.** Except as set forth in this Subsection, a ratepayer's eligibility for an adjustment will end 6 months after the date a final bill was issued for the subject account. The Director may authorize an adjustment to the outstanding balance of a closed utility account more than 6 months after the issuance of the account's final bill if:
  - 1.** The ratepayer was billed for sanitary sewer services for a property that was not connected to the City's sewer system;
  - 2.** The error is discovered after the 6 month deadline for adjustments to a final bill;
  - 3.** The request is made in writing by the ratepayer of record at the time the billing error occurred; and
  - 4.** The adjustment is limited to the sanitary sewer user charge.
  
- D.** Adjustments will be in the form of credits or additional charges to active utility accounts. The Bureau may not issue refunds for billing adjustments unless approved by the Director. Refunds are chargeable to the Sewer System Operating Fund.
  
- E.** Ratepayers who receive a back billing or a delayed billing will be offered the opportunity to pay the balance due over a set period based on current City collection policies.

**17.36.100 Inspection and Enforcement.**

- A.** Right of Entry. To the full extent permitted by the law, the City has authority to enter all private and public premises at any time for the purpose of inspecting sources of potential or actual discharges to the City's sewers and drainage systems and to perform any other lawful act required by or authorized under this Code or ordinances of the City, the Charter, or state or federal law. This authorization includes but is not limited to inspection, sampling, testing, photographic documentation, record examination, copying, and installation of devices as necessary to conduct sampling, inspection, testing, monitoring and metering operations to determine compliance with the requirements of this Chapter. City representatives shall not be required to sign any type of confirmation, release, consent, acknowledgement or other type of agreement as a condition of entry.
  
- B.** Conditions for Entry.
  - 1.** The City representative shall present appropriate credentials at the time of entry.

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2. The City representative shall comply with routine safety and sanitary requirements of the facility or site to be inspected as provided by the facility operator at the time of entry. The facility operator shall provide the City representative with any facility-specific safety protective equipment necessary for entry.
- C. Meter Tampering Unlawful. It is unlawful to install, change, bypass, adjust, or alter any metering device or any piping arrangement connected therewith as to show the quantity of water reaching the public sewer under City control to be less than actual quantity.
- D. Sampling Tampering Unlawful. It is unlawful to tamper in any manner with City-owned or City-installed sampling equipment or samples therefrom.
- E. Falsifying applications or records. Ratepayers shown to have falsified applications and records may be subject to enforcement action.
- F. Enforcement Actions may include:
1. Withholding of City services;
  2. Withholding of City permits;
  3. Reversal of credits. Any credits awarded based on falsified data may be reimbursed to the City via additional charges on the City water and sewer bill.
- G. Civil Remedies.
1. In addition to the remedies provided by any other provision of this Chapter, the City may obtain, in any court of competent jurisdiction, a judgment against a person or property failing to comply with the provision of this Chapter. In any such action, the measure of damages shall be the costs for abatement by the City, administrative costs, permit charges, overhead costs, penalties, and other charges as determined by the Director.
  2. In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may commence and maintain an action or proceeding in any court of competent jurisdiction to compel compliance with, or prevent by injunction, the violation of any provision of this Chapter.

**17.36.110 Administrative Review and Appeal.**

(Replaced by Ordinance No. 186403; amended by Ordinance Nos. 186902 and 189750, effective November 29, 2019.) A ratepayer, property owner or owner's agent may request modification of a BES decision related to this Chapter as described in this Chapter via administrative review with BES staff, unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative review, the



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requestor may appeal a BES decision to the Code Hearings Officer per PCC Title 22, unless appeal is limited by administrative rule.



**CHAPTER 17.42 - PROPERTY OWNER  
RESPONSIBILITY FOR STREETS**

(Chapter added by Ordinance No. 172051, effective  
March 11, 1998.)

**Sections:**

- 17.42.010 Policy.
- 17.42.020 Maintenance and Construction Responsibility.
- 17.42.025 Maintenance Restrictions.
- 17.42.030 Liability.

**17.42.010 Policy.**

(Amended by Ordinance Nos. 177124, 189290 and 190479, effective June 30, 2021.)

- A.** It has been and remains the policy of the City of Portland that streets are constructed at the expense of abutting property owners and are maintained by abutting property owners until street improvements are constructed to the applicable standards of, and accepted for maintenance by, the City. Until a street improvement has been constructed to City standards and the City has expressly assumed responsibility for street maintenance, it is the exclusive duty of the abutting property owners to construct, reconstruct, repair and maintain the unimproved street in a condition reasonably safe for the uses that are made of the street and adjoining properties. Streets that have not been improved to City standards are not and will not be maintained or improved at City expense, except at the discretion of the City and as provided in this Code and the City Charter.

The City may, at its discretion, conduct maintenance and repair activities on gravel streets and alleys. Such an action will not constitute an express or implicit decision by the City to accept maintenance responsibility for such a street or alley.

- B.** Disputes regarding the condition of the unimproved street are private actions among affected property owners.

**17.42.020 Maintenance and Construction Responsibility.**

(Amended by Ordinance Nos. 177124 and 190479, effective June 30, 2021.) The City assumes no responsibility for maintenance, construction or reconstruction of any street until and unless:

- A.** The street has been constructed to City standards and specifications; and
- B.** The City has expressly accepted maintenance responsibility for the street by the City Engineer.

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**17.42.025 Maintenance Restrictions.**

(Added by Ordinance No. 177124; amended by 177750, 184522, 185448 and 186053, effective January 1, 2015.)

- A.** Notwithstanding anything to the contrary in this Title 17, residents and property owners are not required to obtain a permit to maintain public streets abutting their properties if those streets have not been accepted for maintenance by the City or any other jurisdictions, provided the following conditions are met:
1. The travel lane width of the unimproved portion of the street remains the same;
  2. There is no resulting change in existing drainage patterns outside the public right-of-way;
  3. Drainageways located within public rights-of-way are not filled in or otherwise altered in any manner that could impact the flow of water;
  4. The materials used for maintaining the street are equivalent to the existing street materials, except that gravel may be used to resurface a dirt road;
  5. Asphalt, concrete or other man-made materials may not be applied to existing dirt or gravel surfaces, nor may existing dirt or gravel surfaces be converted to a paved surface;
  6. The maintenance activities and resulting condition of the street do not adversely affect surrounding properties;
  7. Trees in the public right-of-way are not removed or pruned unless a tree permit has been obtained as provided in Title 11, Trees; and
  8. Speed bumps or other types of devices intended to slow traffic are not constructed.
- B.** The City Engineer retains final authority to regulate all maintenance and construction activities in the public right-of-way, regardless of whether a permit is required or obtained.
- C.** The City Traffic Engineer retains exclusive authority to establish traffic control devices as provided in Section 16.10.080 and in Section 16.10.200. This includes, but is not limited to, all regulatory, warning, and guide signs, and all types of pavement markings.

**17.42.030 Liability.**

The owner(s) of land abutting any street that has not been improved to City standards and accepted for maintenance shall be liable for any and all damages to any person who is injured or otherwise suffers damages resulting from the defective condition of the street,

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or by reason of the property owner's failure to keep the street in safe condition and good repair. Said property owner(s) shall be liable to the City of Portland for any amounts which may be paid or incurred by the City by reason of all claims, judgments or settlements, and for all reasonable costs of defense, including investigation costs and attorney fees, by reason of said property owners' failure to satisfy the obligations imposed by the Charter and Code of the City of Portland to maintain, construct and repair such streets.

**17.42.040 Definition.**

(Repealed by Ordinance No. 190479, effective June 30, 2021.)



- D.** Ratepayers (typically the property owner or tenant) must inform the Portland Water Bureau if the person responsible for paying the bill changes. If the Portland Water Bureau needs to bill a person other than the current customer or ratepayer, the Portland Water Bureau will reissue the bill from the date the new person became responsible. Refer to Section 21.16.030.
- E.** The Portland Water Bureau may create administrative rules with the Bureau of Environmental Services regarding adjustments, refunds or waivers of sanitary sewer and stormwater management charges.

**21.16.130 Adjustments on Account of Leaks.**

Bill adjustments after leaks. The Portland Water Bureau may reduce a bill that was high because of a leak. To get a leak adjustment, the ratepayer must take the following steps after being notified of high usage:

- A.** Find the leak and start repairs within 30 days or shutoff water to the leak area; and,
- B.** Finish repairs within 90 days or keep water shutoff to the leak area.

**21.16.140 Authority to Estimate Bills.**

If the meter is not working or is unreadable the Portland Water Bureau may charge based on the property's past water use. The Portland Water Bureau may estimate bills if:

- A.** The meter does not register accurately; or,
- B.** The meter reader may not have access the meter. This may happen because of inclement weather, something blocking the meter, an inability to find the meter or illegal water use bypassing the meter.

**21.16.150 Testing Meters.**

- A.** If a ratepayer requests that the Portland Water Bureau check the accuracy of the water use reported on their bill, the Portland Water Bureau will reread the meter and inspect the service for leaks.

If the ratepayer requests that the Portland Water Bureau test the meter, the ratepayer must submit a deposit to cover the test cost. The cost of the test is in the Annual Rates Ordinance.

- B.** If the meter registers 3 percent or more higher than actual water flow, the Portland Water Bureau must refund the deposit, estimate how much the ratepayer has been overbilled and issue a credit. The credit may appear on the current bill or the most recent bill. The Portland Water Bureau will also repair or replace the meter.
- C.** If the meter registers within 3 percent of actual water flow, the Portland Water Bureau will keep the deposit.

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**21.16.160 Service Installation Fees.**

Service installation fees may be paid on a fixed price basis if identified in the Annual Rates Ordinance.

For service installations not listed in the Annual Rates Ordinance, the Portland Water Bureau charges its costs for the project plus overhead based on the Site Specific Fee Statement. Also refer to City Code, Title 5.

The Site Specific Fee Statement provides an applicant with the following choice:

- A. Fixed fee, with no reconciliation; or,
- B. Pay estimate, the Portland Water Bureau reconciles. The Chief Engineer determines that the actual cost of installation will be different than the charges in the site specific fee estimate. The Chief Engineer determines the amount to be paid or refunded after construction and then:
  - 1. If the actual cost is higher than the estimated cost, the applicant must pay the Portland Water Bureau the difference.
  - 2. If the actual cost is lower than the estimated cost, the Portland Water Bureau must refund the applicant the difference.
  - 3. The applicant may appeal to the Administrator. The Administrator's decision is final.

If there is an existing service with a meter, either a service-branch or service-curb, the applicant must pay the applicable charges. Refer to Section 21.16.170.

**21.16.170 System Development Charge.**

(Amended by Ordinance No. 190381, effective April 30, 2021.) Anyone applying for a new service connection or a larger existing connection must pay a System Development Charge (SDC). SDCs are listed in the Annual Rates Ordinance.

Credit from an existing service may only be applied to a new service if the existing service is removed when the new service is installed.

SDCs will be waived for:

- A. Fire protection services.
- B. Temporary uses.
- C. Certain structures and uses, to the extent provided by Portland City Code Section 17.14.070.



**21.16.180 Water Connection Assistance.**

The City may provide water connection assistance to eligible property owners or tenants with separate meters based on criteria established each year in the Annual Rates Ordinance. The Administrator may adopt administrative rules and procedures necessary to implement the water connection assistance criteria described in the Annual Rates Ordinance.

The City may give payment deferrals and loans to property owners or tenants for water System Development Charges. The Administrator may adopt administrative rules and procedures for these deferrals and loans.

**21.16.190 Charges for Water Used Through a Fire Protection Service.**

The Portland Water Bureau may not charge for water used to extinguish a fire.

For pressure testing a fire protection system, the Portland Water Bureau charges based on either the amount of water used (if there is a meter) or an estimate (if there is no meter).

For flow testing, the Portland Water Bureau requires the tester to use a meter and charges based on the amount of water used.

The City does not normally charge sewer fees for fire protection system testing. However, if the testing uses enough water to have a measurable impact on the sewer system, the City may also charge for sewer.

Fire service testing must be done carefully so that it does not interfere with the water system. Anyone testing a fire service must follow these rules:

- A. Flow testing must not reduce the pressure in the main to less than 50 percent of the maximum static pressure.
- B. Flow testing must not reduce the pressure in the main below 30 psi.
- C. Before testing large flows, the tester must consult with the Portland Water Bureau. Together, the tester and the Portland Water Bureau must determine flow limits and make a plan for limiting impacts to the water system.

If a fire service is repeatedly tested in a way that violates Portland Water Bureau policy or affects the system more than the Portland Water Bureau allows, the Portland Water Bureau will reclassify the type of service and collect a System Development Charge.

**21.16.200 Charges for Unauthorized Use Service – Fire.**

- A. A service - fire is only for extinguishing fires and testing the fire system and may not be used for domestic, maintenance or irrigation water. Refer to Section 21.12.220.

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- B.** The Portland Water Bureau may fine a person for unauthorized service-fire line use. The Portland Water Bureau charges more for each use of unauthorized water through a service-fire line. If unauthorized use continues, the Portland Water Bureau installs a meter and bills the property owner for the full cost of the meter, its installation and System Development Charges. Refer to Annual Rates Ordinance for more information on service-fire line charges.

**21.16.220 Billing and Collection for Others by Contract.**

Portland City Council may create contracts for the Portland Water Bureau to bill and collect for other public and private entities. When the Portland Water Bureau collects for another entity, it deposits the revenue in a separate account.

CHAPTER 22.02 - CODE HEARINGS  
OFFICER

**Sections:**

- 22.02.010 Established.
- 22.02.020 Jurisdiction.
- 22.02.030 Definitions.
- 22.02.040 Enforcement.

**22.02.010 Established.**

The office of Code Hearings Officer is hereby created. The Code Hearings Officer shall act on behalf of the Council in considering and applying regulatory enactments and policies pertaining to the matters set forth in other sections of this Title. The Code Hearings Officer shall be appointed in conformance with the Civil Service rules of the City.

**22.02.020 Jurisdiction.**

The Code Hearings Officer shall have jurisdiction over all cases submitted in accordance with the procedures and under the conditions set forth in this Code.

**22.02.030 Definitions.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A. “City” means the City of Portland’s Bureau responsible for initiating the Code Hearing request.
- B. “Code Hearings Officer” means the Code Hearings Officer appointed pursuant to 22.02.010 and any other person designated and appointed by the Code Hearings Officer to act as Code Hearings Officer in a particular proceeding or group of proceedings.
- C. “Ex Parte communication” means a direct or indirect communication about a code enforcement case pending before a Hearings Officer, between the Hearings Officer and a party to the case or their representative, which occurs outside of a public hearing. Ex parte communications do not include communications between:
  - 1. The Hearings Officer and any person employed or contracted by the Hearings Office.
  - 2. The Hearings Officer and the Hearings Office’s legal counsel.
  - 3. Hearings Office staff (excluding the Hearings Officer) and City staff or other participants regarding procedures or for verification of evidence in record.
- D. “Mail” unless otherwise specified, means electronic mail (email) or first-class United States Postal Service mail delivery service.

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- E.** “Party” means:
- 1.** The City of Portland.
  - 2.** Any person named by the City as a Respondent in the complaint.
  - 3.** Any person requesting and entitled to an appeal hearing pursuant to Chapter 22.10.
  - 4.** Any person requesting to participate at the hearing as a party or a limited party which the Code Hearings Officer determines both has an interest in the result of the proceeding or represents a public interest in such result and that the identified interest is not already adequately represented by one of the current parties.
- F.** “Received” means the date and time a document is recorded as received by the Hearings Office; except that a document delivered to the Hearings Office after regularly scheduled business hours or on a Saturday, Sunday, or official City holiday or closure will be deemed to have been received on the next business day at the start of business hours.
- G.** “Respondent” means the party or parties who the City alleges, in the complaint, to have committed a violation of City Code or to be responsible for such violation.

**22.02.040 Enforcement.**

(Added by Ordinance No. 170048; Amended by Ordinance No. 190387, effective May 5, 2021.)

- A.** The City may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any order of the Code Hearings Officer, including, but not limited to, a suit or action to obtain judgment for any civil penalty imposed by an order of the Code Hearings Officer pursuant to Section 22.05.010 A.5. and/or any assessment for costs or penalties imposed pursuant to Section 22.06.010 C.
- B.** Unless authorized by the Code Hearing Officer, it is unlawful for any person to knowingly enter or remain in any building or structure that the Code Hearings Officer has ordered vacated pursuant to Subsection 22.05.010 C.2. In addition to any civil penalties imposed pursuant to Subsection 22.05.010 A.5., any person knowingly entering or remaining in such building or structure shall upon conviction be punished by a fine of not more than \$500, or by imprisonment not exceeding six months, or both.

CHAPTER 22.03 - CODE ENFORCEMENT  
PROCEDURES

**Sections:**

- 22.03.010 Authority of the Code Hearings Officer to Adopt Rules, Procedures, and Forms
- 22.03.020 Initiation of Proceeding.
- 22.03.025 Setting of Hearings
- 22.03.030 Notice of Hearing.
- 22.03.040 Notice; Rights; Procedure.
- 22.03.050 Hearings Procedure.
- 22.03.060 Depositions or Subpoena of Material Witness; Discovery.
- 22.03.070 Subpoenas.
- 22.03.075 Discovery of Documents and Things.
- 22.03.080 Evidence.
- 22.03.090 Continuation of Tenancy.
- 22.03.100 Proposed and Final Orders.
- 22.03.110 Orders.
- 22.03.115 Petitions for Reconsideration, Rehearing.

**22.03.010 Authority of the Code Hearings Officer to Adopt Rules, Procedures, and Forms.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A. In addition to any procedure set forth elsewhere in this Code, Code enforcement proceedings before the Code Hearings Officer shall be conducted in accordance with the procedure set forth in this Chapter. The Code Hearings Officer may promulgate rules and regulations, not inconsistent with this Chapter, concerning procedure and the conduct of hearings.
- B. The Code Hearings Officer is authorized to adopt rules, procedures, and forms to implement the provisions of Title 22.
- C. Adoption of Rules.
  - 1. The Code Hearings Officer may adopt rules pertaining to matters within the scope of Title 22.
  - 2. Prior to the adoption of any rule by the Code Hearings Officer, reasonable public notice of the proposed rules shall be given not less than 30 days prior to the adoption of such rules. Such notice shall include a brief description of the proposed rules, the location at which copies of the full text of the proposed rules may be obtained, and the method of submitting written testimony or comment regarding the proposed rules.

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3. Prior to adopting the rules, the Code Hearings Officer shall review and consider all written testimony and comments received and may adopt the proposed rules or modify or reject them. If a substantial modification of the proposed rules is made, no additional public notice need be given, but notice of the proposed modifications shall be given to all persons submitting written testimony or comments and all other persons requesting such notification, and a reasonable opportunity for additional written testimony and comment shall be provided.
4. Unless otherwise stated, all rules shall be effective upon adoption by the Code Hearings Officer and shall be filed with the Auditor's Office. Copies of all current rules shall be made available to the public upon request. If any person feels aggrieved by any such rule, they may appeal to the Council for its amendment or repeal by filing with the Auditor a petition which shall be presented to the Council at its next regular meeting. But until amended or repealed by the Council, such rule shall be in full force and effect.
5. Notwithstanding Subsections 2. and 3. of this section, the Code Hearings officer may adopt interim rules without prior notice upon a finding that failure to act promptly will result in prejudice to the public interest or to the interest of affected parties.

Any rule adopted pursuant to this subsection shall be effective for a period of not more than 180 days.

**22.03.020 Initiation of Proceeding.**

(Amended by Ordinance Nos. 174444 and 190387, effective May 5, 2021.)

- A. A proceeding before the Code Hearings Officer may be initiated only as specifically authorized elsewhere in the Code.
- B. Except as provided in Sections 22.10.030 and 22.20.010 of this Title, a proceeding before the Code Hearings Officer shall be initiated only by the City filing a complaint with the Office of the Code Hearings Officer in accordance with the procedures established by that Office. The complaint shall contain:
  1. The name(s) of the Respondent(s).
  2. The address or location at which the violation is alleged to have occurred.
  3. A short and plain statement of the alleged violations, including a reference to the particular statutes, rules, or regulations involved.
  4. The nature of the relief sought by the City.

5. The City bureau(s) initiating the proceeding and the name, title, and signature of the person initiating the proceeding on behalf of the City.
6. Such other information as the Hearings Officer may require.

**22.03.025 Setting of Hearings.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A. Upon filing of a complaint, the Code Hearings Officer shall specify a time, date, and place for a public hearing on the complaint and the matters alleged therein. A complaint shall be deemed filed upon it being Received by the Code Hearings Office in accordance with the Hearings Office's administrative rules.
- B. The date set for hearing shall be not less than 14 days nor more than 30 days after the date the complaint is filed, except that the Code Hearings Officer may specify a date for hearing less than 14 days after the complaint is filed where it appears that the alleged violation poses an immediate and serious hazard to the public health, safety, or welfare or to the life, health, safety, welfare, or property of any person. The time frames set forth in this section are waived if the hearing is postponed.
- C. The Code Hearings Officer may postpone, continue, set over, or reschedule any hearing with the consent of all parties or on the motion of any party for good cause shown. The time frames set forth in Subsection 22.03.025 B. above are waived if the hearing is postponed.
- D. The Code Hearings Officer may postpone or reschedule any hearing on their own motion when the Mayor of Portland or the Governor of Oregon declares an emergency and the Code Hearings Officer finds that the nature of the emergency prevents the Hearings Office from conducting a hearing. The time frames set forth in Subsection 22.03.025 B. above are waived if the hearing is postponed or rescheduled.

**22.03.030 Notice of Hearing.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A. The City shall give notice of the hearing, together with a copy of the complaint, a list of violations, statement of rights, and any participation instructions to the Respondent(s) and all other parties, not less than 10 calendar days prior to the date set for hearing except that the Code Hearings Officer may set a shorter period when it appears that the alleged violation poses an immediate and serious hazard to the public health, safety, or welfare or the life, health, safety, welfare, or property of any person. When the City is providing notice of the hearing by United States Postal Service mail, then 3 business days must be added to the deadline above.
- B. The notice of hearing shall specify the time, date, and place set for the hearing.

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- C. Notice may be given by any method or combination of methods which, under the circumstances, is reasonably likely to apprise the parties of the hearing. Notice may be given by:
1. Personally delivering the notice to the party(ies), or
  2. Mailing the notice by United States Postal Service mail, postage prepaid, and addressed to the residence or business address of the party(ies), or
  3. Any method authorized by the Oregon Rules of Civil Procedure for the service of summons, or
  4. Any other method, including electronic mail (email), when authorized by the hearings officer, by rule or otherwise.
  5. If notice is given by United States Postal Service mail, such notice shall be deemed given and received three days (Sundays and holidays not included) after the notice is deposited in the United States mail.
- D. Notice of the hearing and a copy of the complaint shall also be given to:
1. The tenants, residents, and lessees of any building, property, or structure if the City has requested in the complaint the vacation, closure, or demolition of the building, property, or structure or if the Code Hearings Officer determines that such vacation, closure, or demolition is a reasonably possible outcome of the proceeding.
  2. Any other person who reasonably appears to have a financial interest in the property involved and who it reasonably appears may be adversely affected by any determination, decision, or order of the Code Hearings Officer.
  3. Any person who has requested such notification. The Code Hearings Officer may provide by rule, as provided by Section 22.03.010, for the manner and means of giving notice to such persons in a manner reasonably calculated to provide such persons with actual notice of the proceedings.
- E. The failure of any person to receive actual notice of the proceeding shall not invalidate the hearing or any determination, decision, or order of the Code Hearings Officer.

**22.03.040 Notice; Rights; Procedure.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A. Prior to the commencement of a contested hearing, the Code Hearings Officer shall inform each party to the hearing of the following matters:



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1. A general description of the hearing procedure including the order of presentation of evidence, what kinds of evidence are admissible, whether objections any be made to the introduction of evidence and what kind of objections may be made, and an explanation of the burdens of proof or burdens going forward with the evidence.
  2. That a record will be made of the proceedings and the manner of making the record and its availability to the parties.
  3. The function of the record-making with respect to the perpetuation of the testimony and evidence and with respect to any appeal from the determination or order of the Code Hearings Officer.
  4. Whether an attorney will represent the City in the matters to be heard and whether the parties ordinarily and customarily are represented by an attorney.
  5. The title and function of the Code Hearings Officer, including the effect of and authority for the Code Hearings Officer's determination.
  6. In the event a party is not represented by an attorney, whether the party may, during the course of proceedings, request a recess if at that point the party determines that representation by an attorney is necessary to the protection of the party's rights.
  7. Whether there exists an opportunity for an adjournment at the end of the party then determines that additional evidence should be brought to the attention of the Code Hearings Officer and the hearing is reopened.
  8. If the Code Hearings Officer determines, upon a party's motion or sua sponte, that a party should bring additional evidence to the Code Hearings Officer's attention, the Code Hearings Officer will also announce the method for submission (a continued hearing or post-hearing submission), and whether there will be an opportunity for the other party to respond. The Hearings Office may provide represented parties with less latitude or leniency than pro se litigants.
  9. A description of the appeal or judicial review process from the determination or order of the Code Hearings Officer.
- B.** The information required to be given to a party to a hearing under Subsection A. of this Section may be given in writing or orally before commencement of the hearing.
- C.** The failure to give notice of any item specified in Subsection A. of this Section shall not invalidate any determination or order of the Code Hearings Officer unless

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on appeal from or review of the determination or order a court finds that the failure affects the substantive rights of the complaining party. In the event of such a finding, the court shall remand the matter to the Code Hearings Officer for a reopening of the hearing and shall direct the Code Hearings Officer as to what steps shall be taken to remedy the prejudice to the rights of the complaining party.

**22.03.050 Hearings Procedure.**

(Amended by Ordinance Nos. 173369 and 190387, effective May 5, 2021.)

- A.** Unless precluded by law, informal disposition of any proceeding may be made, with or without a hearing, by stipulation, consent order, agreed settlement, or default. However, after issuance of a notice of hearing, no building occupied as a residential structure may be vacated based on an informal disposition unless approved by the Code Hearings Officer.
- B.** Parties may elect to be represented by counsel and to respond to and present evidence and argument on all issues involved.
- C.** An order adverse to a party may be issued upon default only upon a prima facie case made on the record before the Code Hearings Officer.
- D.** Testimony shall be taken upon oath or affirmation of the witness from whom received. The Code Hearings Officer may administer oaths or affirmations to witnesses.
- E.** The Code Hearings Officer shall place on the record a statement of the substance of any written or oral Ex Parte communications made to the Code Hearings Officer on a fact in issue during the pendency of the proceedings. The Code Hearings Officer shall notify the parties of the communication and of their right to rebut such communications.
- F.** The record in a proceeding before the Code Hearings Officer shall include:
  - 1.** All pleadings, motions, and intermediate rulings;
  - 2.** Evidence received or considered;
  - 3.** Stipulations;
  - 4.** A statement of matters officially noticed;
  - 5.** Questions and offers of proof, objections, and rulings thereon;
  - 6.** A statement of any Ex Parte communications on a fact in issue made to the Code Hearings Officer during the pendency of the proceedings;

7. Proposed findings and exceptions; and
  8. Any proposed, intermediate, or final order prepared by the Code Hearings Officer.
- G.** A verbatim, written, mechanical, or electronic record shall be made on all motions, rulings, and testimony.

**22.03.060 Depositions or Subpoena of Material Witness; Discovery.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A.** On petition of any party, the Code Hearings Officer may order that the testimony of any material witness be taken by deposition in the manner prescribed by law for depositions in civil actions. Depositions may also be taken via audio or audio-visual recordings. The petition shall set forth the name and address of the witness whose testimony is desired, a showing of the materiality of the witness' testimony, and a request for an order that the testimony of such witness be taken before an officer named in the petition for that purpose. If the witness resides in this State and is unwilling to appear, the Code Hearings Officer may issue a subpoena, to require the appearance of the witness at the hearing or deposition.
- B.** The Code Hearings Officer may, by rule, prescribe other methods of discovery which may be used in proceedings before the Hearings Officer.

**22.03.070 Subpoenas.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A.** The Code Hearings Officer shall issue subpoenas to any party upon showing of general relevance and reasonable scope of the evidence sought. The hearings office may make available a form with the information required to make this showing. Witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the City, shall receive fees and mileage as prescribed by law for witnesses in civil actions. Unless a witness expressly declines payment of fees and mileage, the witness's obligation to appear is contingent on the payment of fees and mileage.
- B.** A subpoena may be served by a party, the party's attorney, or any other person who is 18 years of age or older. Service may be accomplished by personal service of a true copy of the subpoena upon the witness or an agent of the witness authorized to receive the subpoena; substituted service by leaving a true copy of the subpoena at a person's dwelling house or usual place of abode with a person over 14 years of age; office service by leaving true copies of the subpoena with a person who is apparently in charge of an office; or service by United States Postal Service mail if the witness consents to this method.

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- C. If any person fails to comply with any subpoena so issued or any party or witness refuses to testify on any matters on which the person may be lawfully interrogated, the judge of the Circuit Court of any county, on the application of the Code Hearings Officer, or of a designated representative of the Code Hearings Officer or of the party requesting the issuance of the subpoena, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of subpoena issued from such court or a refusal to testify therein.

**22.03.075 Discovery of Documents and Things**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A. On petition of any party and a showing of the general relevance of the documents or things sought, the Code Hearings Officer may enter an order directing any party to produce and make available to the petitioning party to inspect and copy any documents or to inspect and copy, test, or sample any things which are in the possession of a party. The hearings office may make available a form with the information required to make this showing.
- B. The order directing a party to produce and make available documents or things may require the petitioning party to pay the party producing documents and things that party's reasonable costs associated with such production.
- C. The Code Hearings Officer shall not enter an order requiring a party to produce any document or thing which is privileged under the rules of privilege recognized by law or which is exempt from disclosure under the Oregon Public Records Law.

**22.03.080 Evidence.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Erroneous rulings on evidence shall not preclude action by the Code Hearings Officer on the record unless the error is shown to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible. The Code Hearings Officer shall give effect to the rules of privilege recognized by law. Objections to evidence may be received in written form or orally at the hearing on the record.
- B. All evidence shall be offered and made a part of the record in the case, and except for matters stipulated to and except as provided in Subsection D of this Section, no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies of excerpts, or by incorporation by reference. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.

- C. Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.
- D. The Code Hearings Officer may take notice of judicially recognizable facts, as well as general, technical, or scientific facts within the specialized knowledge of City employees. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of material officially noticed and they shall be afforded an opportunity to contest the facts so noticed.
- E. No sanction shall be imposed or order issued except upon consideration of the whole record as supported by, and in accordance with reliable, probative, and substantial evidence.

**22.03.090 Continuance of Tenancy.**

(Amended by Ordinance No. 190387, effective May 5, 2021.) After issuance of a notice of hearing, and until such time as the Code Hearings Officer issues a final decision, neither the Respondent(s) nor the bureau initiating the hearing shall take any action that results in the vacation of a building used for residential occupancy without the permission of the Code Hearings Officer, except that in cases where buildings are found to be imminently hazardous, the building official or Chief Fire Marshal may order the building vacated if no other means are available to eliminate the imminent hazard.

**22.03.100 Proposed and Final Orders.**

The Code Hearings Officer shall prepare and mail to all parties, a proposed order including findings of fact and conclusions of law. The proposed order shall become final on the date specified in the order, which date shall not be less than 14 days after such mailing, unless the Code Hearings Officer finds that an existing violation is imminently dangerous to the health, safety, or property of any person or of the public, in which case the order may specify an earlier date.

**22.03.110 Orders.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A. Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.
- B. Unless otherwise stipulated, a final order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the Code Hearings Officer's order. The findings of fact and conclusions of law may be orally stated on the record by the Code Hearings Officer and those findings and conclusions incorporated in the written order by reference.

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- C.** The Code Hearings Officer shall notify the parties to a proceeding of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of record.
- D.** Every final order shall include either a citation of the Oregon Revised Statutes or other applicable ordinances under which the order may be appealed or judicially reviewed.

**22.03.115 Petitions For Reconsideration, Rehearing.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A.** A party may file a petition for reconsideration or rehearing on a final order with the Code Hearings Officer within 30 days after the order is mailed.
- B.** The petition shall set forth the specific ground or grounds for requesting the reconsideration or rehearing. The petition may be supported by written argument. A motion for reconsideration cannot be used to expand the record as stated in Subsection F.
- C.** The Code Hearings Officer may grant a request for reconsideration if good and sufficient reason therefor appears. If the petition is granted, an amended order shall be issued. Good and sufficient cause may include, but is not limited to, any of the following: an intervening change in controlling law, a clear error of law, plainly incorrect or irrational reasoning, a failure to consider evidence, a need to prevent manifest injustice.
- D.** The Code Hearings Officer may grant a rehearing petition if good and sufficient reason therefor appears. The rehearing may be limited by the Code Hearings Officer to specific matters. If a rehearing is held, an amended order may be issued.
- E.** The Code Hearings Officer, at any time, upon its own motion, and upon a showing of due diligence, may set aside, modify, vacate, or stay any final order, or re-open any proceeding for additional hearing when necessary to prevent a clear and manifest injustice to a party or other person adversely affected by such order.
- F.** A motion for reconsideration cannot rely on new evidence (that is, evidence that was not previously submitted before the close of the record) unless the proponent of the evidence demonstrates the evidence was not reasonably discoverable with due diligence prior to the close of the record.

**CHAPTER 22.04 - JUDICIAL REVIEW**

**Section:**

22.04.010 Judicial Review.

**22.04.010 Judicial Review.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A.** Review of the final order of a Code Hearings Officer under this Title by any aggrieved party, including the City of Portland, shall be by writ of review to the Circuit Court of Multnomah County, Oregon, as provided in ORS 34.010-34.100. The Hearings Officer may modify this rule if jurisdiction exists elsewhere or as applicable laws may require. If a writ of review is filed, then an audio recording of the hearing will be delivered to the City Attorney's Office.
- B.** If a transcript of the audio recording is requested, then the City Attorney's Office will fulfill this request. If the City prevails on such review, the reasonable costs of preparing the transcript, including such costs as are specified in Section 5.48.030 of this Code, shall be allowed as a part of the City's costs in such action. However, upon petition, a court having jurisdiction to review may reduce or eliminate the charge upon finding that it is equitable to do so, or that matters of general interest would be determined by review of the order of the Code Hearings Officer.

**22.04.020 Appeals to Council.**

(Amended by Ordinance No. 158042; repealed by Ordinance No. 158583, effective June 4, 1986.)

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**CHAPTER 22.05 - POWERS**

**Section:**

22.05.010 Order to Comply; Abatement, and Repair.

**22.05.010 Order to Comply; Abatement, and Repair.**

(Amended by Ordinance Nos. 171455, 176955 and 190387, effective May 5, 2021.)

- A.** The Code Hearings Officer may order a party found in violation of the Code of the City of Portland or any applicable rule or regulation issued thereunder to comply with the provisions of the Code or the applicable rule or regulation within such time as the Code Hearings Officer may by order allow. The order may require such party to:
1. Make any and all necessary repairs, modifications, and/or improvements to the structure, real property, or equipment involved;
  2. Abate or remove any nuisance;
  3. Change the use of the building, structure, or real property involved;
  4. Install any equipment necessary to achieve compliance;
  5. Pay to the City of Portland a civil penalty of up to \$1,000 per day or such greater amount as may be authorized by this Code or any rules or regulations adopted thereunder; or
  6. Undertake any other action reasonably necessary to correct the violation or mitigate the effects thereof.
- B.** In the event any party fails to comply with any provision of an order of the Code Hearings Officer, except a provision requiring the payment of a civil penalty only, the Code Hearings Officer may authorize the City to undertake such actions as the Code Hearings Officer may determine are reasonably necessary to correct the violation and/or eliminate or mitigate the effects thereof. The City's reasonable costs of such actions may be made a lien against the affected real property pursuant to Chapter 22.06 of this Title.
- C.** Where the Code Hearings Officer finds that there is a violation of any of the provisions of Title 24, 25, 26, 27, 29, or 31, the Code Hearings Officer, in addition to the powers set out in Subsections A. and B. above, may:
1. Authorize the Bureau of Development Services to act pursuant to Chapter 29.40 of this Code;



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2. Provided notice has been given to tenants, residents, and lessees as required by Subsection 22.03.030 D., order a building or structure vacated or demolished when it reasonably appears that such measures are reasonably required to protect the health, safety, or property of the general public, the residents of the structure, or adjacent landowners and residents. Where vacation or demolition is ordered, the Code Hearings Officer may direct that the person found in violation of the Code undertake any and all interim measures as may be necessary;
3. Act as the Building Code Board of Appeals in a case already before the Code Hearings Officer and which requires interpretation of Title 29 of this Code;
4. Require the party found in violation of this Code to prepare a cost estimate of the repairs made necessary to achieve compliance with the Code and the impact of these repairs will have on the cost of doing business and, if applicable, future rent levels. In assessing the cost estimate under this Subsection the Code Hearings Officer may require the person found in violation to contact public and private agencies, institutions, and other sources of property improvement funds to determine the availability of funds needed for repairs.

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**CHAPTER 22.06 - ASSESSMENTS**

**Section:**

22.06.010 Assessments.

**22.06.010 Assessments.**

(Amended by Ordinance Nos. 171455, 173369, 189413 and 190387, effective May 5, 2021.)

- A. Costs incurred by the City of Portland for any actions authorized by the Code Hearings Officer pursuant to Subsection 22.05.010 B. and C. and any civil penalty imposed as a result of an order of the Code Hearings Officer shall be an assessment lien upon the property subject to the order.
- B. If a residential structure is ordered vacated pursuant to Sections 22.05.010 C.2. or 29.60.070 of this Code and the City of Portland relocates the tenants of such property, then the cost incurred by the City for relocating the tenants as provided by ORS 90.450 shall be an assessment lien upon the property vacated and from which the tenants are relocated.
- C. The bureau incurring such costs shall furnish a statement of such costs on the owner, in person or by United States Mail, postage prepaid and addressed to the owner(s) at the owner(s) residence or place of business, and shall file a copy of such statement for the Code Hearings Officer with proof of service attached. If no objection to such statement is filed with the Office of the Code Hearings Officer within 15 days from the date of service or mailing, the Code Hearings Officer shall certify such statement and forward the same to the Revenue Division who shall forthwith enter the same in the City lien docket.
  - 1. If an objection to the statement is received within the 15-day period, the Code Hearings Officer shall schedule and hold an appeal hearing pursuant to Chapter 22.10. After the hearing, the Code Hearings Officer shall certify such statement, or so much of it as the Code Hearings Officer determines is correct and proper, and forward it to the Revenue Division who shall enter it into the City lien docket.
  - 2. The Code Hearings Officer shall certify to the Revenue Division the amount of any civil penalty imposed under any order of the Code Hearings Officer, and the Revenue Division shall enter it into the City lien docket. The lien imposed for the civil penalty shall be in addition to any lien imposed for costs actually incurred by the City.
  - 3. The bureau incurring costs or providing services may file separate statements for the costs and services furnished as each is incurred or provided.

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4. Liens imposed pursuant to this Title shall be collected in all respects as provided for in Section 5.30.050 Collection Process.
- D.** In addition to the lien imposed under this Section, any person found to be in violation of the Code of the City of Portland shall be personally liable for costs incurred by the City pursuant to Subsection 22.05.010 B. and C. and for any civil penalty imposed by order of the Code Hearings Officer. In cases of person found to be in violation of the Code of the City of Portland as owners of property, the persons shall be personally liable hereunder only if they have control of the property, the legal authority to correct the violation, and knowingly have committed the violation.

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**CHAPTER 22.10 - APPEALS TO THE CODE  
HEARINGS OFFICER**

**Sections:**

22.10.010	Definitions.
22.10.020	Jurisdiction.
22.10.025	Notification of Right to Appeal; Enforcement; Remedies.
22.10.030	Initiation of Appeal.
22.10.040	Hearings.
22.10.050	Hearings Procedure.
22.10.060	Nature of Determination.

**22.10.010 Definitions.**

(Amended by Ordinance Nos. 187151, 189614 and 190387, effective May 5, 2021.) For the purpose of this Chapter:

- A.** “City bureau” means and includes any bureau, division, Board, Committee, officer, agent, or employee of the City of Portland.
- B.** “Decision or determination” means and includes any decision, determination, order, or other action of any City bureau. Decisions or determinations do not include any action, decision, determination, or order that is subject to the review procedures set forth in Title 33 or Chapter 16.30 of the Code.
- C.** “Ex parte communication” means a direct or indirect communication about a code enforcement case pending before a Hearings Officer, between the Hearings Officer and a party to the case or their representative, which occurs outside of a public hearing. Ex parte communications do not include communications between:
  - 1.** The Hearings Officer and any person employed or contracted by the Hearings Office.
  - 2.** The Hearings Officer and the Hearings Office’s legal counsel.
  - 3.** Hearings Office staff (excluding the Hearings Officer) and City staff or other participants regarding procedures or for verification of evidence in record.
- D.** “Mail” unless otherwise specified, means electronic mail (email) or first-class United States Post Office mail delivery service.
- E.** “Received” means the date and time a document is recorded as received by the Hearings Office; except that a document delivered to the Hearings Office after regularly scheduled business hours or on a Saturday, Sunday, or official City

holiday or closure will be deemed to have been received on the next business day at the start of business hours.

**22.10.020 Jurisdiction.**

- A. Whenever, pursuant to any portion of this Code, a person has the right of appeal to the Code Hearings Officer from any City bureau decision or determination, such appeal shall be in accordance with the procedures and under the conditions set forth in this Chapter.
- B. No person shall have a right of appeal to the Code Hearings Officer unless the right of appeal is expressly provided for in this Code.

**22.10.025 Notification of Right to Appeal; Enforcement; Remedies.**

(Added by Ordinance No. 187151, effective September 1, 2015.)

- A. City bureaus shall give notice of the right to appeal to the Code Hearings Officer in accordance with Section 3.130.020.
- B. Where the Code, in accordance with Section 22.10.020, provides that an administrative appeal as defined in Section 3.130.010 is to be decided by the Code Hearings Officer, the Code Hearings Officer shall have the authority to enforce the requirements of Section 3.130.020 and may adopt evidentiary requirements by rule.
  - 1. If, in deciding such an administrative appeal, the Code Hearings Officer finds that a City bureau has failed to provide notice in accordance with Section 3.130.020, the Code Hearings Officer may order a just and reasonable remedy related to the failure to provide notice, including remanding the administrative act that is the subject of the administrative appeal, reducing any fees and penalties associated with the administrative act, staying the effect of the administrative act pending the outcome of the administrative appeal, or invalidating the administrative act if failure to provide notice materially prejudiced the appellant. Nothing in this Subsection shall be construed to allow the Code Hearings Officer to award monetary damages to the appellant.

**22.10.030 Initiation of Appeal.**

(Amended by Ordinance Nos. 187151 and 190387, effective May 5, 2021.)

- A. Unless otherwise specified in this Code, a request for an appeal hearing shall be filed within 10 business days after the date of the decision or determination. The Code Hearings Officer may waive this requirement for good cause shown.

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- B.** The request for an appeal hearing shall be filed directly with the Code Hearings Office, in accordance with the procedures established by the office. The request shall be in writing and shall contain:
1. a completed appeal form by either completing the questions in the online case management system or by completing and submitting an appeal form the Hearings Office makes available;
  2. a copy of the decision or determination appealed from and a statement of grounds upon which it is contended that the decision or determination is invalid, unauthorized, or otherwise improper; and
  3. any other information as the Code Hearings Officer may by rule require.
- C.** By presenting to the Code Hearings Officer an appeal or other document – whether by signing, filing, submitting or later advocating it – a person or party certifies that to the best of the person’s or party’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:
1. the appeal or paper is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase costs;
  2. the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;
  3. the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and
  4. the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or lack of information.
- D.** The Code Hearings Officer shall not charge any filing fee for an appeal hearing.

**22.10.040 Hearings.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A.** Once a request for hearing is Received, the Code Hearings Officer shall schedule and hold an appeal hearing within 30 business days after the Code Hearings Office Received such request.
- B.** Notice of the time, date, and place of hearing shall be given to the person requesting the hearing and to the City bureau whose decision or determination is being appealed. If an attorney communicates to the Hearings Office in writing that they

represent the Appellant in the matter then Notice shall be given to the attorney. Any person who reasonably appears to have an interest in the outcome of the appeal hearing may submit a written request to appear as a limited party to the Hearing. If the request is granted, then Notice shall be given to the person.

- C. The time for hearing may be extended by the Code Hearings Officer for good cause shown or due to a City closure, or Mayor or Governor declared emergency, upon such terms and conditions as the Code Hearings Officer shall deem just and appropriate.

**22.10.050 Hearings Procedure.**

(Amended by Ordinance Nos. 187151 and 190387, effective May 5, 2021.)

- A. Hearings shall be conducted in accordance with the procedures set forth in Sections 22.03.050 to 22.03.115 of this Title.
- B. With the consent of all parties, the Code Hearings Officer may determine the matter without hearing upon the record.
- C. The Code Hearings Officer may sustain, modify, reverse, or annul the decision or determination appealed from or the Code Hearings Officer may remand the decision or determination to the City bureau for such reconsideration, additional consideration, or further action as the Code Hearings Officer may direct.
  - 1. Whenever a City decision or determination is sustained on appeal and it is for recovery of money or civil penalties, the Code Hearings Officer may, upon request, award post-judgment interest at the rate set by ORS 82.010(2), unless the rate is otherwise specified in this Code.
- D. Upon motion of a party or upon the Code Hearings Officer's own motion, the Code Hearings Office may impose sanctions against a person or party who violates Subsection 22.10.030 C.
  - 1. Upon a motion for sanctions, the Hearings Officer shall direct the person or party to appear before the Code Hearings Officer and show cause why sanctions should not be imposed.
  - 2. The evidence that a person or party violated Subsection 22.10.030 C. must be clear and convincing to authorize the imposition of sanctions.
  - 3. Sanctions under this Section may include amounts sufficient to reimburse the City bureau for costs and other expenses incurred by reason of the Subsection 22.10.030 C. violation, prejudgment interest at the rate set by ORS 82.010(2) unless the rate is otherwise specified in this Code, and a

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civil penalty not to exceed \$10,000 sufficient to deter repetition of the violation or comparable violations by others similarly situated.

4. An order imposing sanctions under this Section must describe the sanctioned conduct, explain the basis of the sanction, and state the amount of the sanction.
- E. The decision or determination appealed from shall be reviewed de novo by the Code Hearings Officer.

**22.10.060 Nature of Determination.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A. The determination of the Code Hearings Officer is a quasi-judicial decision and is not appealable to Council; appeals from any determination by the Code Hearings Officer shall be by writ of review to the Circuit Court of Multnomah County, Oregon, as provided in ORS 34.010-34.100. If a writ of review is filed, then an audio recording of the hearing will be delivered to the City Attorney's Office.
- B. If a transcript of the audio recording is requested, then the City Attorney's Office will fulfill this request. If the City prevails on such review, the reasonable costs of preparing the transcript, including such costs as are specified in Section 5.48.030 of this Code, shall be allowed as a part of the City's costs in such action. However, upon petition, a court having jurisdiction to review may reduce or eliminate the charge upon finding that it is equitable to do so, or that matters of general interest would be determined by review of the order of the Code Hearings Officer.



**CHAPTER 22.20 - VIOLATIONS UNDER  
CIVIC STADIUM GOOD NEIGHBOR  
AGREEMENT**

(Chapter added by Ordinance No. 174444, effective  
May 18, 2000.)

**Section:**

22.20.010 Authority.

**22.20.010 Authority.**

(Amended by Ordinance No. 190387, effective May 5, 2021.)

- A.** The Code Hearings Officer is authorized to hear and determine complaints from the Goose Hollow Foothills League and the Northwest District Association brought pursuant to the terms of the Civic Stadium Good Neighbor Agreement and to impose orders and penalties consistent with the terms of that Agreement.
- B.** Any party to the Civic Stadium Good Neighbor Agreement may appeal a decision of the Code Hearings Officer to the City Council by filing a notice of appeal within 30 days from the date of the decision. The notice shall be filed with the Auditor's office and shall be mailed by first class mail to all other parties to the Agreement. The appeal will be conducted on the record before the Code Hearings Officer and not de novo.



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shall notify the permit holder, or the permit holder's agent, in writing, wherein the same fails to comply with the provisions of this Title.

- C. Stop Work Orders. When it is necessary to obtain compliance with this Title, the Director may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If the Director issues a stop work order, activity subject to the order may not be resumed until such time as the Director gives specific approval in writing. The stop work order will be in writing, except when an emergency condition exists, the Director may issue a stop work order orally, followed by a written stop work order. All stop work orders will conform to the requirements of City Code Section 3.30.080. Any person subject to a stop work order may seek review of the order by the Director and may appeal the Director's determination in accordance with City Code Section 3.30.080.
- D. It is unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure in the City, or cause the same to be done, contrary to or in violation of any of the provisions of this Title.
- E. If an unoccupied structure or structure under construction is open or unattended, the Director may enter to determine if a hazardous condition exists. If such a condition exists, the Director shall notify the owner of the condition and order the structure immediately secured against the entry of unauthorized persons.
- F. In the event the property owner, permit holder or the owner's agent fails or neglects to carry out any requirement, or fails to correct any noted violation of this Title, the Director may gain compliance by any of the remedies outlined in Chapter 3.30 of the Code of the City of Portland and is authorized to institute any appropriate proceeding at law or in equity to restrain, correct, or abate such violation or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this Title or of the order or direction made pursuant thereto.

**24.10.070 Application for Permits.**

(Amended by Ordinance. Nos. 162100, 163908, 165678, 169905, 171773, 174880, 176783, 176955, 180330, 187432, 188647, 188884, 189806 and 190350, effective May 7, 2021.)

- A. Permits required. No person, firm, or corporation may erect, construct, enlarge, alter, repair, move, improve, remove, convert, change occupancy group of, or demolish any building or structure, or do any clearing or grading, or cause any of the same to be done without first obtaining the proper permit, or where appropriate a minor structural label as outlined in Section 24.10.095. The limitations of Oregon Revised Statutes 455.020 notwithstanding, permits are required to construct, alter,

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repair or move any structure as identified in this Title or in the Oregon Structural Specialty Code or the Oregon Residential Specialty Code, as adopted in Chapter 24.10 of this Title. Building permits and fees for work on private property are waived whenever the work appears on plans and specifications, approved by the City Engineer or BES Chief Engineer. This work will be limited to the construction of streets, public sewers, public stormwater management facilities, driveways, retaining walls, fences, walkways, parking pads, steps, and tree, shrub, and brush removal.

- B.** Plans and specifications.
  - 1.** Plans, engineering diagrams, and other data must be submitted with each application, and must comply with the requirements of Chapter 1 of the Oregon Structural Specialty Code and this Title. If a structural design is required, computations, stress diagrams, computer data, and such additional data as required by the Director, sufficient to show the correctness of the plans and compliance with the structural provisions of this Title must be submitted. The above data must include a brief summary of all basic assumptions, design methods, structural systems, loading, lateral bracing systems, and a table of contents of the computations. Computer calculations submitted as substantiation of the design must include a copy of the program user manual for each program, definition, sketches, index of data runs, and properly identified input and output listings. For other than nationally recognized programs, the correctness of the program must be substantiated in a manner acceptable to the Director. When required by the Director, or when required under ORS 672 (State Engineering Law) or ORS 671 (State Architectural Law), plans must be prepared and certified by a registered design professional licensed to practice in the State of Oregon.
  - 2.** Examination of documents. The Director will examine or cause to be examined plans and specifications and will ascertain by such examination whether the construction indicated and described is in accordance with the requirements of this Title and other laws and regulations of the City.
- C.** Parking lots. Parking lots will not require a separate building permit when they are clearly shown on plans submitted and their valuation is included on the application for the principal building permit.
- D.** Compliance with Chapter 17.88 (Street Access) of this Code is required prior to issuance of a permit issued under this Chapter 24.
- E.** Plans for other than one and two family dwelling repairs, remodels, or additions must be approved by the Fire Marshal prior to approval by the Director.



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- F.** Issuance of permits. Except as otherwise provided in this Title, permits will be issued in accordance with Chapter 1 of the Oregon Structural Specialty Code and the provisions of this Title, provided that plans for all commercial buildings and any off-street parking area where the parking of three or more cars is to be established must be approved by the City Engineer and the City Traffic Engineer before a building permit may be issued.
1. Action on application. The Director will issue a permit if the Director is satisfied that the proposed work conforms to the requirements of this Title and other laws and regulations of the City.
  2. Validity of permit. The issuance or granting of a permit must not be construed to be a permit for, or an approval of, any violation of any provisions of this Title or of any other laws or regulations of the City. Permits presuming to give authority to violate or cancel the provisions of this Title or other laws or regulations of the City must not be valid. The Director is authorized to prevent occupancy or use of a structure where in violation of this Title or any other laws or regulations of the City.
  3. Suspension or revocation. The Director is authorized to suspend or revoke a permit issued under the provisions of this Title wherever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any provisions of this Title or any other laws or regulations of the City.
- G.** Charge for partial permits. When complete plans and specifications are not available, the Director may issue partial permits to assist in the commencement of the work, provided that a partial permit charge is paid to the bureau. The number of partial permits issued may not exceed six on any individual project, except that in special circumstances the Director may allow this number to be exceeded.
- H.** Retention of plans.
1. Plans and specifications for all buildings, or their photographic image, must be retained permanently in the files of the Bureau of Development Services, except as follows:
    - a. Plans and specifications for work which does not concern or affect the structural stability of a building and which does not affect a change of occupancy may be destroyed after 5 years from date of building permit for same;
    - b. Plans and specifications for one or two family dwellings, and/or buildings accessory thereto may be destroyed after 5 years from date of building permit for same.

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- I.** A separate permit will be required for site development, changes in use, or other work performed in compliance with Title 33, Chapter 33.700, Administration, which is not otherwise included with the permit described in Subsection A. of this Section. Reviews and approval of site plans or other documents must be obtained from the Bureau of Development Services prior to issuance of the permit.
- J.** Life of Permit Limited.
  - 1.** Permit applications.
    - a.** Initial permit application. Except for Personal Wireless Service Facility permit applications, a permit application that is inactive for a period of 180 days will be deemed abandoned. If an abandoned permit application is not reactivated within 180 days of abandonment, the permit application will be void. If a permit application is void, a new permit application is required for the subject work. A Personal Wireless Service Facility permit application, for which a permit is not issued within 180 calendar days from the date the permit application is under review status will be deemed abandoned, unless the Building Official has granted an extension. An abandoned Personal Wireless Service Facility permit application may not be reactivated.
    - b.** Extensions. The Building Official may extend a permit application with justifiable cause, as determined in the Building Official's sole discretion. A permit application may be extended for a period of up to 180 days. Extension requests must be in writing and received by the Bureau of Development Services before the scheduled permit abandonment date.
    - c.** Reactivations. Except for Personal Wireless Service Facility permits, the Building Official may reactivate a permit application that has been abandoned for less than 180 days with justifiable cause, as determined in the Building Official's sole discretion. Reactivation requests must be in writing and received by the Bureau of Development Services within 180 days after permit expiration. If no activity occurs within 180 days after a permit application is reactivated, the permit application will be deemed abandoned. A permit application may be reactivated only once.
  - 2.** Issued permits.
    - a.** Initial issued permit. Except for Personal Wireless Service Facility permits, if no inspection is approved within 180 days after permit issuance, the permit will expire. If an expired permit is not

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reactivated within 180 days of expiration, the permit will be void. If a permit is void, a new permit is required for the subject work. A Personal Wireless Service Facility permit that has not received final inspection approval within 180 days from the date the permit is issued will expire, unless the Building Official has granted an extension.

- b.** Extensions. Except for Personal Wireless Service Facility permits, each time an inspection is approved, the permit will automatically be extended for 180 days. The Building Official may also extend a permit for periods of up to 180 days with justifiable cause, as determined in the Building Official's sole discretion. Extension requests must be in writing and received by the Bureau of Development Services before the scheduled permit expiration date. If no inspection is approved or additional extension granted within the extended time period, the permit will expire.
- c.** Reactivations. The Building Official may reactivate a permit that has been expired for less than 180 days, provided no changes have been made to the scope of work, and with justifiable cause as determined in the Building Official's sole discretion. Except for Personal Wireless Service Facility Permits, a void permit may be reactivated provided there have been no changes to the scope of work and only the final inspection remains unapproved. A void Personal Wireless Service Facility permit may not be reactivated. Reactivation requests must be in writing and received by the Bureau of Development Services within 180 days after permit expiration. If no inspection is approved within 180 days of reactivation, the permit will expire. A permit may be reactivated only once.

- 3.** Fees. When a new permit is required, a new permit application must be submitted and new fees must be paid based on the current adopted Bureau of Development Services fee schedule. The Bureau of Development Services will adopt policies for fee refunds or credits of previously submitted permit applications. Fees for permit extensions and reactivations may also be charged as adopted in the Bureau of Development Services fee schedule.

- K.** Maintenance Agreements. If any building element, structure, or utility crosses a real property line, a maintenance agreement and access easement must be signed by all affected property owners and recorded in the County Recorder's Office on all affected properties. The agreement and easement must address the repair, upkeep, and replacement of and access to all elements, structures, and utilities that cross a real property line. Prior to recording, the maintenance agreement and access easement must be reviewed and approved by the building official. The maintenance

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agreement and access easement may not be modified or suspended without the building official's prior written approval. The applicant must provide a copy of the recorded maintenance agreement and access easement to the building official prior to issuance of the building permit.

**24.10.072 Other Structures and Construction Activities.**

(Added by Ordinance No. 189806, effective December 18, 2019.)

- A. Regulated structures and construction activities. The provisions of this Title apply to the following structures and construction activities regardless of when a permit was applied for or approved:
1. Fire safety during construction.
  2. Protection of adjoining properties.
  3. Temporary use of streets, alleys and public property.
  4. Encroachment into the right-of-way.
  5. Mechanical equipment not specifically regulated in the Oregon Structural Specialty Code or Oregon Residential Specialty Code.
  6. Retaining walls, unless exempt pursuant to Subsection 24.10.072 B.
  7. Fences, unless exempt pursuant to Subsection 24.10.072 B.
  8. Tanks that are located exterior to and not attached to or supported by a building.
  9. Cell phone, radio, television, and other telecommunication and broadcast towers that are not attached to or supported by a building.
  10. Flagpoles that are not attached to or supported by a building.
  11. Signs not attached to or supported by a building.
  12. Ground-mounted photovoltaic arrays.
  13. Fixed piers or wharves with no superstructure.
  14. Equipment shelters not intended for human occupancy with a building area of 250 square feet or less, designated as Risk Category I or II.
  15. Transitional housing accommodations, as defined in ORS 446.265, as amended by House Bill 2916 (2019).

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- B.** Exempt structures. Exemption from the requirements of this Title shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Title or any other laws or regulations of the City. The following structures are exempt from the provisions of this Title:
1. Fences, except for required barriers around swimming pools, fences not over 7 feet (2134 mm) high and typical field fencing not over 8 feet (2438 mm) high when constructed of woven wire or chain link.
  2. Retaining walls that are not over 4 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or IIIA liquids.
  3. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927 L) and the ratio of height to diameter or width does not exceed 2 to 1.
  4. Swings and other playground equipment.
  5. Ground mounted flagpoles, antennae, and similar structures that do not exceed 25 feet in height.

**24.10.075 Bureau of Development Services Administrative Appeal Board.**

(Added by Ordinance No. 187432; Amended by Ordinance No. 189806, effective December 18, 2019.)

- 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

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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 the Building Code was not correctly interpreted or applied;
2. grant a modification to the application of the Building Code where special individual reasons make application of the strict letter of the Building Code impractical, the modification is in compliance with the intent and purpose of the Building Code, and such modification does not lessen health, accessibility, life and fire safety or structural requirements of the structure;
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 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, accessibility and safety. The Administrative Appeal Board may not waive the requirements of 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; and
4. grant requirements that are in addition to this Title or other laws or regulations of the City as part of an appeal.

- C. **Reconsideration of Final Decisions and Appeals to the Building 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 Building Code Board of Appeal in accordance with Section 24.10.080 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 Building 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 Building 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.

**24.10.080 Building Code Board of Appeal.**

(Replaced by Ordinance No. 187432, effective December 4, 2015.)

- A. Appointment of Building Code Board of Appeal.** In order to hear appeals of final decisions of the Building Official made under Section 24.10.075, there has been created a Building Code Board of Appeal, consisting of three members and three alternates appointed by the Mayor and approved by the City Council.
1. Each member and alternate member must be qualified by experience and training to make decisions pertaining to the Building Code and building construction. At least one member and one alternate member must be competent builders who have engaged in the construction business in the City for at least 2 years immediately preceding their appointments, and at least one member and one alternate member shall be competent architects who have practiced their profession for at least 3 years.
  2. Building 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 Building Code Appeal Board shall comply with the State ethics laws applicable to public officials.
  5. Members of the Building Code Appeal Board shall serve in a voluntary capacity and without pay.
- B. Appeals to the Building Code Appeal Board.** The Building 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 Building 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 Building Code Board of Appeal. A panel of three Building Code Appeal Board

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members will hear each appeal. The Board may, by a majority vote, affirm, annul, or modify the decision.

**C. Powers and Limitations of Authority of the Building Code Appeal Board.** The Building Code Board of Appeal may provide reasonable interpretations of the requirements of the Building Code and may grant an appeal if the Board finds one of the following:

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 the Building Code impractical, the modification is in compliance with the intent and purpose of the Building Code, and such modification does not lessen health, accessibility, life and fire safety or structural requirements of the structure; or
3. any alternative material, design or method of construction and equipment complies with the intent of the Building Code and 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, accessibility and safety. The Building Code Board of Appeal may not waive the requirements of the Building Code.

Any person aggrieved by a final decision of the Building 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.

**24.10.085 Structural Engineering Advisory Committee.**

(Added by Ordinance No. 162056; amended by Ordinance Nos. 187432 and 188647, effective November 17, 2017.)

**A.** There is hereby created a Structural Engineering Advisory Committee consisting of six members licensed in Oregon to practice structural engineering, appointed by the Mayor and approved by the City Council.

Members may be appointed to no more than two consecutive 3-year terms, unless the Director recommends approval of a longer term, and the Mayor and City Council approve the extended appointment. In addition, the Director, or designee, shall be an ex-officio member of the board.

**B.** Any member of the board may be removed from office by the Mayor for malfeasance in office or neglect of duty at any time during the member's tenure.



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- C.** The committee shall elect a chairperson, adopt rules of procedure, and set the time and place for regular meetings. A quorum consisting of at least three members of the committee is required to conduct committee business. Written minutes of all meetings shall be made and kept subject to the requirements and limitations of ORS 192.610 to ORS 192.690.
- D.** It shall be the duty of the board to advise the Director and/or the Appeals Board in structural matters relative to reasonable interpretation and to alternate materials and methods of construction.
- E.** Any action of the board shall be in an advisory capacity to the City. Subsequent action taken by the City as a result of advice from the boards shall be the sole responsibility of the City.

**24.10.087 Alternative Technology Advisory Committee.**

(Added by Ordinance No. 182217; amended by Ordinance No. 187432, effective December 4, 2015.)

- A. Purpose.** It shall be the duty of the Alternative Technology Advisory Committee to advise the Bureau of Development Services on new or innovative sustainable building technologies and products.
- B. Membership.** The Alternative Technology Advisory Committee shall consist of a minimum of three and a maximum of seven members. The committee members will be appointed by the Mayor and approved by the City Council. The committee shall consist of design professionals, construction contractors, and persons associated with a university with an engineering school. In addition, two designees from the Bureau of Development Services familiar with building code review shall be ex-officio members of the committee.
- C. Appointment and Terms.**
  - 1.** Appointment to the Alternative Technology Advisory Committee shall be for a three-year term. Committee members may be appointed to no more than two consecutive, complete terms, unless the Director recommends approval of a longer term, and the Mayor and City Council approve the extended appointment. If a position is vacated during a term, it shall be filled for the unexpired term.
  - 2.** Any member of the committee may be removed from the committee by the Mayor for malfeasance in office.
  - 3.** The committee shall elect a chairperson, adopt rules of procedure, and set the time and place for regular meetings. Written minutes of all meetings shall be kept.

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- D. Compensation.** Alternative Technology Advisory Committee members shall serve without compensation.
- E. Other.** The Alternative Technology Advisory Committee serves only in an advisory capacity to the City. Subsequent action taken by the City as a result of the committee's advice shall be the sole responsibility of the City.

**24.10.090 Pre-application and Pre-construction Meetings.**

(Amended by Ordinance No. 162100, effective August 1, 1989). Where major construction projects involve coordination between City bureaus and the design/construction teams, the Director may hold a pre-application or pre-construction meeting with representatives of the interested parties as an aid to the enforcement of this Title.

**24.10.095 Commercial and Industrial Minor Structural Labels.**

(Added by Ordinance No. 171773; amended by Ordinance No. 187432, effective December 4, 2015.)

- A. General.** Oregon Revised Statutes Chapter 455.155 gives the Department of Consumer and Business Services the authority to create a statewide permit and inspection system for minor construction work. The Oregon Building Codes Division under the Department of Consumer and Business Services has created a mandatory statewide minor labels program. Implementation rules are found in Oregon Administrative Rules 918-100-0000 through 918-100-0600. The Bureau, in accordance with OAR 918-100-0060, will conduct inspections and issue necessary correction notices for minor commercial and industrial labels issued pursuant to the statewide minor labels program.

**24.10.100 Fees.**

**24.10.101 General.**

(Amended by Ordinance No. 176955, effective October 9, 2002.) The following fees are required to be paid to the Director of the Bureau of Development Services, shall be as set forth in this Chapter.

**24.10.102 Building Permit and Plan Check/Process Fee.**

(Replaced by Ordinance No. 174719, effective August 21, 2000.)

- A.** All required fees are stated in the Fee Schedule adopted by City Council. Fees will be updated annually or on an as needed basis. The approved Fee Schedule will be available at the Development Services Center.
- B.** A plan checking fee is payable when the plans and application are accepted by the Director for examination and shall not be refundable. A permit fee shall be paid to the Director before a building permit is issued.

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- C. Permit and plan check fees will, as a general rule, be refunded when the services covered by the fee have not commenced, and the permit or plan review fees were paid incorrectly due to an error on the part of the City. When a permit applicant requests a refund, but the City was not at fault in accepting payment, fees shall be retained to cover the cost of plan review or inspections actually performed and 20 percent of the amount remaining. State surcharge fees are only refundable when a permit was issued in error. Requests for refunds must be made within 6 months of payment or permit issuance, whichever is later. Refunds are to be made to the same person or firm who paid the fee within 3 months of the request. Exceptions to the above requirements may be made by the Director or designee.

**24.10.103 Requested Inspection Fees.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.104 Fee for Appeal.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.106 Home Occupation Permit.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.107 Appeal Fee for Historical Building Review Board.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.108 Street Use Fees.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.109 Grading Permit Fees.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.110 Excavation and Grading Plan Check Fees.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.111 Dangerous Building Abatement Processing Fee.**

(Repealed by Ordinance No. 167088, effective Dec. 3, 1993.)

**24.10.112 Product Approval Fee.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.113 Circus Tent Fee.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.114 Welder Certification Fee.**

(Repealed by Ordinance No. 165486, effective July 1, 1992.)

**24.10.115 Reproduction Fees.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

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- 24.10.116 Fee for Examination of Filed Plans.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)
- 24.10.117 Approved Fabricators Certification Fee.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)
- 24.10.118 Special Inspection Certification Fee.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)
- 24.10.119 Approved Testing Agency Certification Fee.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)
- 24.10.122 Certificate of Occupancy.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)
- 24.10.123 Temporary Certificate of Occupancy.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)
- 24.10.124 Zoning Inspection Fee.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)
- 24.10.125 Inspections Outside of Normal Business Hours.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)
- 24.10.126 Reinspection Fee.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)
- 24.10.127 Additional Plan Review Fee.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)
- 24.10.128 Address Assignment Fee.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)
- 24.10.130 Clearing Permit Fee.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)
- 24.10.131 Clearing With Tree Cutting Permit Fee.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.).
- 24.10.132 Pre-Permit Site Inspection for Properties in Environmental Zones.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)
- 24.10.133 Manufactured Dwelling Installation Fees.**  
(Repealed by Ordinance No. 174719, effective August 21, 2000.)

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**24.10.134     Manufactured Dwelling Park.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.135     Recreational Park.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.136     Park Trailer Installation Fees.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.137     Minor Structural Labels.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.138     Master Permit/Facilities Permit Program Fees.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.139     On-site Permanent Stormwater Control Facilities Inspection Fee.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

**24.10.140     Tree Preservation and Planting Plan Check and Inspection Fee.**

(Repealed by Ordinance No. 174719, effective August 21, 2000.)

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**CHAPTER 24.15 - DEFINITIONS**

**Sections:**

24.15.010	General.
24.15.020	Abandoned Structure.
24.15.030	Agreement/Contract to Repair Work.
24.15.040	Approved Testing Agency.
24.15.045	Boarded.
24.15.050	Building.
24.15.060	Dangerous Structure.
24.15.065	Derelict Commercial Building.
24.15.070	Director.
24.15.075	Dwelling Unit.
24.15.080	Exterior Property Area.
24.15.090	Hearings Officer.
24.15.100	Imminently Dangerous.
24.15.110	Inspections Manager.
24.15.115	Master Permit/Facilities Permit Program
24.15.120	Owner.
24.15.130	Repair.
24.15.140	Residential Structure.
24.15.150	Requested Inspection.
24.15.160	Service Station Site.
24.15.170	Substandard.
24.15.180	Special Inspector.
24.15.190	Subject Structure.
24.15.200	Structure.
24.15.215	Tree Removal.
24.15.220	Unoccupied.
24.15.230	Unsafe.
24.15.240	Unsecured.
24.15.250	Value/Valuation.
24.15.260	Warehousing.

**24.15.010 General.**

For the purpose of this Title, certain terms, phrases, words, and their derivatives shall be construed as specified herein. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. Terms, words, phrases, and their derivatives used, but not specifically defined in this Chapter, either shall have the meaning defined in this Title, or if not herein defined, shall have the meanings commonly accepted in the community.

**24.15.020 Abandoned Structure.**

An abandoned structure is a structure that has been vacant for a period in excess of 6 months or any period less than 6 months when a vacant structure or portion thereof constitutes an attractive nuisance or hazard to the public.

**24.15.030 Agreement/Contract to Repair/Work.**

An agreement or contract to repair/work is a written agreement in which an owner of a structure agrees to carry out repair/work on any abandoned, unsafe, dangerous structure, or structure between a specified commencement and completion date.

**24.15.040 Approved Testing Agency.**

An approved testing agency is an established and recognized agency regularly engaged in conducting testing and furnishing inspection services.

**24.15.045 Boarded.**

Added by Ordinance No. 162525; amended by 164318 and 168901, effective June 7, 1995.) Secured against entry by apparatus which is visible off the premises and is not both lawful and customary to install on occupied structures.

**24.15.050 Building.**

A building is a structure used or intended for sheltering any use or occupancy.

**24.15.060 Dangerous Structure.**

(Amended by Ordinance No. 168626, effective April 22, 1995.) Any structure which has any or all of the conditions or defects hereinafter described, to the extent that life, health, property, or safety of the public or its occupants are endangered, shall be deemed to be a dangerous structure and such condition or defects shall be abated pursuant to Sections 24.55.250 and 24.55.300 of this Chapter.

- A. Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than 1-1/2 times the working stress or stresses allowed in the Oregon Structural Specialty Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location.
- B. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Oregon State Structural Specialty Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location.
- C. Whenever any portion or member of appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

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- D.** Whenever any portion of a building, or any member, appurtenance, or ornamentation of the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the Oregon Structural Specialty Code and Fire and Life Safety Code for new buildings of similar structures, purpose, or location without exceeding the working stresses permitted in the Oregon State Structural Specialty Code and Fire and Life Safety Code for such buildings.
- E.** Whenever any portion thereof has wrecked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
- F.** Whenever the building or structure, or any portion thereof, because of

  - 1. dilapidation, deterioration, or decay;
  - 2. faulty construction;
  - 3. the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building;
  - 4. the deterioration, decay, or inadequacy of its foundation; or
  - 5. any other cause, is likely to partially or completely collapse.
- G.** Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- H.** Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
- I.** Whenever the building or structure exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing, or outside wall coverings.
- J.** Whenever the building or structure has been so damaged by fire, wind, earthquake or flood or any other cause, or has become so dilapidated or deteriorated as to become (I) an attractive nuisance, or (ii) a harbor for vagrants or criminals.
- K.** Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this City, as specified in the Oregon State Structural Specialty Code and Fire and Life Safety Code or any law



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or ordinance of this State or City relating to the condition, location, or structure or buildings.

- L.** Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member, or portion, less than 50 percent, or in any supporting part, member, or portion less than 66 percent of the
  - 1.** strength,
  - 2.** fire-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location. This subsection does not apply to strength required to resist seismic loads. For application of seismic requirements see Chapter 24.85.
- M.** Whenever any building or structure, because of dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is a fire hazard.
- N.** Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
- O.** Whenever any portion of a building or structure remains on a site for more than 30 days after the demolition or destruction of the building or structure.

**24.15.065 Derelict Commercial Building.**

(Added by Ordinance No. 162525; amended by 164318 and 168901, effective June 7, 1995.) Any building or structure:

- A.** In which there are no dwelling units, and
- B.** Which is not an accessory building to a building in which there are dwelling units, and
- C.** Which building, structure or a portion thereof is unoccupied; and
- D.** Which meets any of the following criteria:
  - 1.** Has been ordered vacated by the Director pursuant to 24.55.250 F; or
  - 2.** Has been issued a correction notice by the Director pursuant to 24.55.250 A.; or
  - 3.** Is unsecured; or

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4. Is boarded; or
5. Has been posted for violation of Section 18.03.050 more than once in any two year period; or
6. Has, while vacant, had a nuisance abated by the City pursuant to Sections 18.03.010 or 18.03.030.

**24.15.070 Director.**

(Amended by Ordinance No. 176955, effective October 9, 2002.) Director shall mean the Director of the Bureau of Development Services or a duly authorized representative of the Director.

**24.15.075 Dwelling Unit.**

(Added by Ordinance No. 168901, effective June 7, 1995.) One or more habitable rooms which 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.

**24.15.080 Exterior Property Area.**

Exterior property area is the open space on the premises and on adjoining property under the control of the owner or operator of such premises.

**24.15.090 Hearings Officer.**

Hearings Officer is the office of the Code Enforcement Hearings Officer created pursuant to Section 22.02.010 of the City Code.

**24.15.100 Imminently Dangerous.**

Imminently dangerous means any condition posing a direct and immediate threat to human life, health, or safety.

**24.15.110 Inspections Manager.**

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Inspections Manager is the Director's duly authorized representative responsible for the administration of the Inspections Division of the Bureau of Development Services.

**24.15.115 Master Permit/Facilities Permit Program.**

(Added by Ordinance No. 172431; amended by Ordinance No. 173973, effective January 1, 2000.) The Master Permit/Facilities Permit program is a special alternative inspection program authorized under Oregon Revised Statute 455.190. This program is available to commercial/industrial building owners and building management companies to streamline the approval of maintenance/repair and tenant improvement work on their private facilities.

**24.15.120 Owner.**

Owner is any person, agent, firm, or corporation having a legal or equitable interest in a property.

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**24.15.125 Personal Wireless Service Facility.**

(Added by Ordinance No. 190350, effective May 7, 2021.) An antenna facility, including: (a) an antenna designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless service and any commingled information services; (b) antenna equipment, including equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna for personal wireless service; or (c) a structure that is primarily used or that will be primarily used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

**24.15.130 Repair.**

Repair is the reconstruction or renewal of any part of an existing structure for the purpose of its maintenance.

**24.15.140 Residential Structure.**

Residential structure means any building or other improvements designed or intended to be used for residential purposes.

**24.15.150 Requested Inspection.**

Requested inspection means any additional inspection which is not part of the City's regular or mandated inspection program.

**24.15.160 Service Station Site.**

(Amended by Ordinance No. 169905, effective April 1, 1996.) A service station site shall mean premises improved as a Group S, Division 3, occupancy for use as automobile or truck service stations used for supplying fuel, oil, minor accessories, and trailers, excluding body and fender repair for passenger automobiles, trucks, and truck trailers at retail direct to the customer.

**24.15.170 Substandard.**

Substandard means in violation of any of the minimum requirements as set out in this Title.

**24.15.180 Special Inspector.**

Definition to be added.

**24.15.190 Subject Structure.**

(Amended by Ordinance No. 176955, effective October 9, 2002.) A subject structure is any abandoned, unsafe, or dangerous structure upon which the Bureau of Development Services has commenced abatement proceedings.

**24.15.200 Structure.**

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A structure is that which is built or constructed, an edifice or building of any kind, or any piece or work artificially built up or composed of parts joined together in some definite manner.

**24.15.210 Swimming Pool.**

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

**24.15.215 Tree Removal.**

(Added by Ordinance No. 168340; amended by Ordinance No. 184522, 185448 and 186053, effective January 1, 2015.) Tree Removal shall have the same meaning as “removal” as defined in Title 11 Trees.

**24.15.220 Unoccupied.**

(Added by Ordinance No. 162525; amended by 168901, effective June 6, 1970.) Not being used for a lawful occupancy.

**24.15.230 Unsafe.**

Means:

- A. Any structure which is structurally unsafe or not provided with adequate egress, or which constitutes a fire hazard or is otherwise dangerous to human life.
- B. Unsafe use is any use of structures constituting a hazard to health, safety, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment.
- C. Unsafe appendages are parapet walls, cornices, spires, towers, tanks, statuarities, or other appendages or structural members which are supported by, attached to, or part of a building, and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the Oregon State Structural Specialty and Fire and Life Safety Code.

**24.15.240 Unsecured.**

(Added by Ordinance No. 162525, amended by 168901, effective June 7, 1995.) Any building or structure in which doors, windows, or apertures are open or broken so as to allow access by unauthorized persons.

**24.15.250 Value/Valuation.**

Value or valuation of a structure or building shall be the estimated cost to replace the structure or building in kind, based on either the building valuation data reported in the latest issue of the ICBO Building Standards Journal or by any alternate method approved by the Director to give an accurate assessment of building replacement costs.

**24.15.260 Warehousing.**

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Warehousing means securing a structure against vandalism, deterioration, and unauthorized entry pending its return to active use or occupancy.

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**CHAPTER 24.20 - SPECIAL INSPECTIONS**

(Chapter replaced by Ordinance No. 187432,  
effective December 4, 2015.)

**Sections:**

- 24.20.010 General.
- 24.20.020 Selection of the Special Inspectors and/or Agencies.
- 24.20.030 General Duties of the Special Inspector.

**24.20.010 General.**

- A. In addition to the inspections required under Section 110 of the Oregon Structural Specialty Code, the owner or the owner's agent shall employ a Special Inspector during construction of the types of work specified in Chapter 17 of the Oregon Structural Specialty Code or for cases specifically required by the Director.
- B. The Director shall have the authority to adopt and enforce written rules concerning the conduct and administration of special inspections in the City of Portland.

**24.20.020 Selection of the Special Inspectors and/or Agencies.**

With the approval of the Director, Special Inspectors and approved inspection and/or testing agencies shall be chosen and paid by the owner, and will report to the licensed architect or engineer whose signature and seal appear on the design drawings and to the Bureau of Development Services. No changes of Special Inspectors or inspection/testing agency approved by the Director shall be made without obtaining approval of the responsible architect/engineer and the Director.

**24.20.030 General Duties of the Special Inspector.**

(Amended by Ordinance No. 188647, effective November 17, 2017.)

- A. The Special Inspector shall observe the work assigned for conformance with the approved construction documents.
- B. The Special Inspector shall keep records of inspections and shall furnish inspection reports to the Director, the Registered Design Professional, as that term is defined in Chapter 2 of the Oregon Structural Code. All discrepancies shall be brought to the immediate attention of the contractor for correction, then, if uncorrected, to the Director.
- C. The Special Inspector/Inspection Agency shall submit a final signed summary report stating whether the work requiring special inspection was, to the best of their knowledge, in conformance with the approved plans and specifications and the applicable workmanship provisions in the State Building Code.

**CHAPTER 24.25 - MOVING OF BUILDINGS**

**Sections:**

- 24.25.010     General.
- 24.25.020     Permit Information Required.
- 24.25.030     Direction of City Engineer.
- 24.25.040     Housing Code Inspection Report Required.

**24.25.010     General.**

No building shall be moved from one location to another until permits have been obtained.

**24.25.020     Permit Information Required.**

(Amended by Ordinance No. 188647, effective November 17, 2017.) The applicant shall file with the Director an application for a permit to move the structure, it shall be signed by the owner or the owner's authorized agent, and shall contain a description of the building to be moved, the location where it is to be moved, and the use and occupancy proposed, in addition to the information required by Section 24.10.070 of this Title regarding foundation or other work at the final location.

**24.25.030     Direction of City Engineer.**

(Amended by Ordinance No. 169905, effective April 1, 1996.) No building shall be moved across or along any street until the route to be followed and the time allowed for moving has been submitted to the City Engineer and approved by him. Moving shall be under the direction of the City Engineer. For the regulations covering the use of public streets see Chapter 33 of the Structural Specialty Code.

**24.25.040     Housing Code Inspection Report Required.**

The Director shall inspect any residential building that is proposed to be moved, to ensure its compliance with the provision of Title 29 of the Code of the City of Portland.

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**CHAPTER 24.30 - HOME OCCUPATIONS**

**Sections:**

- 24.30.010 Permits Required.
- 24.30.020 Compliance with Planning and Zoning Regulations.
- 24.30.030 Fees for Home Occupations.

**24.30.010 Permits Required.**

A permit shall be required to establish a home occupation. The permit shall be renewed every 2 years to maintain said home occupation.

**24.30.020 Compliance with Planning and Zoning Regulations.**

All home occupations shall comply with the provisions of Title 33 of the Code of the City of Portland.

**24.30.030 Fees for Home Occupations.**

The fee for a home occupation permit shall be as provided in Section 24.10 of this Title.



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**CHAPTER 24.35 - HISTORICAL BUILDINGS**

(Chapter repealed by Ordinance No. 187432,  
effective December 4, 2015.)

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**CHAPTER 24.40 - USE OF AND  
PROJECTIONS OVER PUBLIC STREETS  
AND PROPERTY**

**Sections:**

- 24.40.010 Street Use.  
24.40.020 Dirt on Streets from Construction Projects.  
24.40.030 Fees.

**24.40.010 Street Use.**

(Amended by Ordinance No. 169905, effective April 1, 1996.) A person undertaking work covered by a building permit, may, on proof of necessity, be entitled to a permit for use of the street, sidewalks, and/or roadway. Applications shall be subject to the approval of the Traffic Engineer and the Director. Material or equipment necessary for the work may be placed or stored on public property in the following locations:

- A. On the roadway, adjacent to the curb in front of the site for which a building permit has been issued.
- B. On the roadway in front of an adjoining site.
- C. On the public sidewalk, in front of the construction site, except on those sidewalks required to be kept open. A street use permit shall be issued for a minimum period of 1 week and a maximum period of 90 days. The permit may be extended if in the judgment of the Director an extension is warranted by existing conditions. The use of the street by persons holding a permit and/or the fencing-off of street space shall not be continued longer than is necessary. If the permit for street use is within the Special Traffic Control Districts outlined in Section 17.23.030, the prior approval of the City Engineer must be obtained if the street use extends beyond the curb line.

When work not requiring a building permit is undertaken for maintenance of buildings or structures in the congested areas where parking meters are located, the person undertaking such work shall not close off any portion of the sidewalk or roadway areas without first obtaining, subject to the approval of the Traffic Engineer, a street use permit; the time limit for such permit shall be as specified above. If the street use permit is within the special Traffic Control Districts outlined in Section 17.23.030, the prior approval of the City Engineer must be obtained if the street use extends beyond the curb line. While work is in progress, a roped-off passageway not less than 4 feet in width shall be maintained for pedestrians. This passageway shall be no closer, than 6 feet horizontally from any scaffold, ladder, machinery, or equipment. The passageway shall be entirely contained within the existing sidewalk area. The Director may also require pedestrian protection as outlined in Chapter 33 of the Structural Specialty Code. In order to ensure coordination of construction activity within the Street area and to provide that the

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private and public needs are met, the Director may also require a preconstruction meeting as outlined in Section 24.10.090 of this Title.

**24.40.020     Dirt on Streets from Construction Projects.**

If dirt or debris falls on any public right-of-way and such debris originates from a construction project for which a building, plumbing, or electrical permit has been issued, it is unlawful for the permit holder and/or owner not to remove it immediately. Failure of either the owner and/or permit holder to remove the spillage within 24 hours after notification given either orally or in writing may result in the Director gaining compliance by any of the methods outlined in Section 24.10.060 of this Title.

**24.40.030     Fees.**

Fees for street use shall be as indicated in Section 24.10 of this Title.

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**CHAPTER 24.45 - PARKING AND  
DRIVEWAY SURFACES**

**Sections:**

- 24.45.010 General.  
24.45.020 Minimum Surfacing Standards for Parking Areas and Garages for Passenger Cars and Trucks not Exceeding 1/2-Ton Capacity and Driveways Serving Structure 150 Feet or Less from an Improved Public Right-of-Way.  
24.45.030 Minimum Surfacing Standards for Driveways Serving Structures More than 150 Feet from an Improved Public Right-of-Way.  
24.45.040 Minimum Surfacing Standards for Trucks Over 1/2-Ton Capacity and Other Vehicles.  
24.45.050 Private Streets.

**24.45.010 General.**

All vehicular driveways, parking spaces, and areas utilized for the maneuvering of vehicles shall be surfaced in accordance with this Chapter.

**24.45.020 Minimum Surfacing Standards for Parking Areas and Garages for Passenger Cars and Trucks not Exceeding 1/2-Ton Capacity and Driveways Serving Structures 150 Feet or Less from an Improved Public Right-of-Way.**

(Amended by Ordinance No. 173270, effective May 21, 1999.) Surfaced areas shall be constructed on properly drained, well-compacted subgrade, that is free of organic materials. Minimum pavement structure shall be:

- A. Three and one-quarter inches Portland cement concrete having a compressive strength of 2,000 psi after 28 days, or
- B. One and one-half inches of asphalt concrete placed over a base of 4 inches of crushed stone or gravel, or
- C. Grid paving blocks, paving stones or materials with adequate spacing for drainage infiltration, or other stormwater management control surfaces. Where such surfaces are provided in accessible parking and as part of an accessible pedestrian path, the surfaces shall meet accessibility standards of the state building code.

**24.45.030 Minimum Surfacing Standards for Driveways Serving Structures More than 150 Feet from an Improved Public Right-of-Way.**

(Amended by Ordinance No. 173270, effective May 21, 1999.) Surfaced areas shall be constructed on properly drained, well-compacted subgrade, that is free of organic materials. Minimum pavement structure shall be:

- A. Two inches of asphalt concrete on 4 inches of 1-inch minus, compacted crushed rock; or

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- B.** Five inches of Portland cement concrete having a compressive strength of 3,000 psi after 28 days, or
- C.** A driveway surfaced as per Section 24.45.020 for the first 40 feet contiguous with the right-of-way paving and the remaining portion of 8 inches of 1-inch minus, compacted crushed gravel over filter fabric, or
- D.** Grid paving blocks, paving stones or materials with adequate spacing for drainage infiltration, or other stormwater management control surfaces. Where such surfaces are provided in accessible parking and as part of an accessible pedestrian path, the surfaces shall meet accessibility standards of the state building code.

**24.45.040 Minimum Surfacing Standards for Trucks Over 1/2-Ton Capacity and Other Vehicles.**

Surface of parking, storing, and maneuvering areas for vehicles and motorized equipment not regulated elsewhere in this Chapter shall be by a method approved by the Director that will effectively eliminate dust, mud, or other contaminating elements on surrounding street areas and/or abutting property and be constructed of materials capable of supporting the maximum axle weight of the largest piece of equipment. At each street entrance, a concrete or asphalt driving apron shall extend from the right-of-way paving at least 40 feet into the surface area.

**24.45.050 Private Streets.**

(Amended by Ordinance No. 169228, effective August 23, 1995.) Private street improvements shall consist of 1-1/2 inches of Class “C” asphalt concrete on 1-1/2 inches of Class “B” asphalt concrete on 6 inches of 1-1/2 inch minus compacted crushed gravel upon a compacted subgrade that has achieved 95 percent compaction.

No gates or other barriers which would restrict vehicles or pedestrians from using the private street may be located on a private street approved under this section.

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**CHAPTER 24.50 - FLOOD HAZARD AREAS**

(Chapter replaced by Ordinance No. 160413,  
effective January 14, 1988.)

**Sections:**

- 24.50.010 Purpose.
- 24.50.020 General.
- 24.50.030 Flood Related Definitions.
- 24.50.040 FIA Study and Flood Hazard Maps.
- 24.50.050 Flood Hazard Areas and Flood Protection Elevations.
- 24.50.060 Provisions for Flood Hazard Reduction.
- 24.50.065 Recreational Vehicles located in Areas of Special Flood Hazard or Base Flood Zones.
- 24.50.070 Appeals and Variances.

**24.50.010 Purpose.**

The purpose of this Chapter is to protect the public health, safety, and welfare by restricting or prohibiting uses which are dangerous to health, safety, or property in times of flood or which cause increased flood heights or velocities, and by requiring that uses and structures vulnerable to floods be protected from flood danger at the time of initial construction.

**24.50.020 General.**

(Amended by Ordinance No. 182370, effective November 26, 2008.)

- A.** The provisions of this Chapter shall regulate development and construction in flood hazard areas identified in Section 24.50.030.
- B.** Land classified in a flood hazard area may restrict or affect uses and development permitted in one or more of the regular zones listed in Chapter 33.16. If an inconsistency exists between Chapter 24.50 and other titles of this Code, the more restrictive uses or requirements shall prevail.
- C.** A structure or the use of a structure or property which was lawful before the original date of this Chapter but which is not in conformity with the provisions of this Chapter may be continued subject to provisions of the State Building Code, regulations for existing structures.
- D.** The flood protection elevations and the floodway and floodway fringe areas specified by this Chapter, based on the 100-year flood elevations, are considered reasonable. Greater flood heights and more extensive floodway fringe areas associated with longer flood frequency occurrences may occur or the flood height and extent of flooding may be increased by human or natural causes, such as log jams, bridge openings restricted by debris, or changes in basin conditions. Areas within designated drainage districts and those areas not covered by adequate

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topographic maps may contain unmapped watercourses subject to flooding. The identification of designated flood hazard areas does not imply that lands outside of such areas will be free from flooding or flood damage.

The City of Portland or any officer or employee thereof, or the Federal Insurance Administration shall not be liable for any flood damages that result from reliance on the provisions or designations of this Chapter or any administrative decision lawfully made thereunder.

**24.50.030 Flood Related Definitions.**

(Amended by Ordinance Nos. 178741, 182370 and 184235, effective November 26, 2010.)  
The definitions contained in this Section relate to flood hazard areas and considerations outlined in this Chapter.

- A. "Appeal" means a request for a review of the City of Portland's interpretation of any provision of this ordinance or a request for a variance.
- B. "Area of shallow flooding" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from 1 to 3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
- C. "Areas of Special Flood Hazard" mean the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.
- D. "Base Flood (100-year flood)" means the flood having 1 percent chance of being equaled or exceeded in any given year. Designation on maps always includes the letters A or V.
- E. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
- F. "City Datum" means the reference datum for the City of Portland maps. The FIRM maps described in Section 24.50.050 are referenced to the North American Vertical Datum (NAVD) of 1988. To convert NAVD 1988 level to City datum, subtract 2.125 feet from the elevation referenced to NAVD 1988 level.
- G. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings, bridges, other structures, and mining, dredging, filling, grading, paving, excavation, fencing, landscaping, drainage facilities, drilling operations, or storage of equipment or material.

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- H.** "Existing manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including as a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the original date of this Chapter.
- I.** "Expansion to an existing manufactured home park or manufactured home Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets).
- J.** "FIA" means Federal Insurance Administration.
- K.** "Flood Hazard Area" means any area which has been identified as subject to flooding.
- L.** "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that contains information regarding flooding, discusses the engineering methods used to develop the Flood Insurance Rate Maps (FIRMs), includes flood profiles, and the water surface elevation of the base flood.
- M.** "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated the areas of special flood hazards.
- N.** "Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, and/or the unusual and rapid accumulation of runoff of surface waters from any source.
- O.** "Flood protection elevation" means the water surface elevation of the base flood plus a freeboard allowance.
- P.** "Floodplain" means the channel of watercourse and adjacent land areas which are subject to inundation by the base flood.
- Q.** "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, sanitary, and water facilities, structures, and their contents.
- R.** "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The actual



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floodway boundaries are computer activated and approximate. These boundaries are depicted on the FIRM. Boundaries for other watercourses may be subject to identification by the Sewage System Administrator. The width of the floodway for unidentified watercourses should not be less than 15 feet.

- S. "Flood fringe area" means any area lying outside the floodway which is subject to flooding by a base flood and for which water surface elevations and floodway and flood fringe boundaries have been determined by a Flood Insurance Study and are shown on the FIRMs. Boundaries for unidentified watercourses may be subject to identification by the Sewage System Administrator.
- T. "Freeboard" means an additional height above the base flood level to account for factors that may contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as filling in the floodway fringe, wave action, effect of urbanization of the watershed, map inaccuracies, irregular stream cross sections, irregular constructions at bridges, and the uncertainties of flood discharge computations.
- U. "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 24.50.060 F.2.
- V. "Manufactured home" means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
- W. "New construction" means structures for which the start of construction commenced on or after the effective date of this Chapter.
- X. "New manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lots on which the manufactured home is to be affixed (including as a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) is completed on or after the original date of this Chapter.
- Y. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair,

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reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets, walkways, sanitary sewers, storm sewers, and/or drainage facilities; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

- Z.** “Structure or accessory structure” means, for the purposes of this Chapter, a walled and roofed building including a gas or liquid storage tank that is principally above ground.
- AA.** “Substantial Damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- BB.** "Substantial Improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either:
  - 1.** Before the improvement or repair is started, or
  - 2.** If the structure has been damaged, and is being restored, before the damage occurred. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a.** Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
  - b.** Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.
- CC.** “Variance” means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

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- DD.** “Water surface elevation” means the height of the water surface of the base flood for any point along the longitudinal course of a stream.
- EE.** “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently, and if the latter, with some degree of regularity. Watercourses may be either natural or artificial.

**24.50.040 FIA Study and Flood Hazard Maps.**

(Amended by Ordinance Nos. 173979, 176955, 178741, 182671 and 184235, effective November 26, 2010.) The following study and maps in this Section are hereby adopted and declared to be a part of this Chapter.

- A.** Flood Insurance Study is the official scientific and engineering report entitled “Flood Insurance Study for City of Portland, Oregon: Multnomah, Clackamas and Washington Counties”, dated November 26, 2010 prepared by the Federal Insurance Administration (FIA) under agency agreement with the Portland District Corps of Engineers. The latest edition of the report, along with accompanying FIRMs, are on file with the Bureau of Development Services.
- B.** Flood Insurance Rate Maps (FIRMs) are the official maps entitled “The Flood Insurance Rate Maps (FIRMs) for City of Portland, Oregon: Multnomah, Clackamas and Washington Counties”, dated either October 19, 2004 or November 26, 2010, whichever is more current, on which the Federal Insurance Administration has delineated the areas of flood hazards along with the 100-year (base flood) and 500-year flood boundaries, the floodway zone boundaries and the 100-year flood elevations.
- C.** Water Features Map is the official map, dated May, 1981, or latest edition, compiled by the Bureau of Planning and Sustainability delineating certain watercourses which are subject to special flood hazard and drain 30 acres or more.
- D.** When base flood elevation data has not been provided by the FIA study, the Sewage System Administrator may obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source. This data shall be utilized only after technical review and approval of the Sewage System Administrator.
- E.** The "Title 3 Water Quality and Flood Management Area Map," as adopted by Metro Council on June 18, 1998, is the official map which identifies areas as "February 1996 Flood Inundation." The identified areas are subject to the regulations of this Title.

**24.50.050 Flood Hazard Areas and Flood Protection Elevations.**

(Amended by Ordinance Nos. 173979, 178741 and 182370, effective November 26, 2008.) Flood hazard areas shall contain all lands located within the Floodway boundary, Flood

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Zones within the Flood fringe areas, and other identified Flood Zones. Identified Flood Zones are depicted on the National Flood Insurance Rate Map (FIRM). Both identified and unidentified Flood Hazard areas along with flood protection elevations are described in the following. Figure 1 illustrates the basic flood hazard areas and elevations.

(See Figure 1 at the end of Title 24)

- A.** Columbia River FIRM Flood Zone AE. These flood zones represent areas for which base flood elevations are determined. The flood protection elevation shall be the base flood elevation plus one foot of freeboard. The nominal one-foot increase for freeboard reflects the relatively wide flood plain of the Columbia River. In the vicinity of the confluence of the Columbia and Willamette Rivers, the Columbia River floodplain shall be considered to be east of the westerly floodway fringe boundary of the Columbia Slough.
- B.** Multnomah Drainage District No. 1 and Peninsula Drainage District No. 2 FIRM Zone AH. This flood zone represents isolated areas of shallow flooding (1 to 3 feet in depth, resulting from upslope runoff) for which base flood elevations are determined. In the case of unidentified watercourses occurring within the boundaries of the Drainage Districts, the base flood elevation shall be estimated by procedures described in paragraph G. below. The flood protection elevation shall be the base flood elevations plus one foot of freeboard.
- C.** Columbia River FIRM Flood Zone A. These flood zones represent areas for which base flood elevations are not determined. The flood protection elevation shall be either the grade at the adjacent flood fringe boundary or the crown of the nearest street, whichever is higher, plus one foot of freeboard.
- D.** Willamette River FIRM Flood Zone AE. These flood zones represent areas for which the base flood elevations are determined. The flood protection elevation shall be the base flood elevation plus two feet of freeboard.
- E.** Johnson Creek, Fanno Creek and Crystal Springs Creek FIRM Flood Zone AE. This flood zone represents area for which the base flood elevations are determined. The flood protection elevation shall be the base flood elevation plus two feet of freeboard.
- F.** Johnson Creek FIRM Flood Zone AH. This flood zone represents areas of shallow flooding depth (1 to 3 feet) for which base flood elevations are determined. The flood protection elevation shall be the base flood elevation plus two feet of freeboard.
- G.** Johnson Creek FIRM Flood Zone AO. This flood zone represents areas of shallow flooding depth (1 to 3 feet) for which the depths of flooding are determined. The flood protection elevation shall be the depth of flooding shown on the FIRM map plus two feet of freeboard above the highest adjacent grade.

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- H.** Johnson Creek, Fanno Creek, Tryon Creek, and Crystal Springs Creek FIRM Flood Zone A. These flood zones represent areas for which base flood elevations are not determined. The flood protection elevation shall be the base flood elevation plus two feet of freeboard. Base flood elevations shall be calculated in accordance with paragraph I. below.
- I.** Unidentified Watercourse Flood Zones. These watercourses, generally draining one acre or more, are not identified in a Federal Insurance Study and may not be identified on the Water Features map. The flood protection elevation shall be the base flood elevation plus two feet of freeboard. The width of the floodway shall not be less than 15 feet. The floodway boundary, flood fringe boundary, and flood protection elevation data shall be based upon watercourse geometry, slope, channel roughness, effect of obstructions, backwater and other factors which affect flood flow. The requisite flood hazard data, maps, and sections shall be obtained and developed by procedures approved by the Sewage System Administrator. When appropriate and necessary data are available, the flood protection elevation and floodway and flooding fringe boundary data may be provided by the Sewage System Administrator. If pertinent hydrologic data and topographic data are not available, inaccurate, or outdated, and where substantial alterations or relocations of a watercourse are involved, the Sewage System Administrator may require the permit applicant to secure a registered engineer and surveyor to develop and supply the requisite flood hazard data, maps, and sections.
- J.** Metro Flood Management Areas. Flood 1996 inundation areas shown on Metro Title 3 Water Quality and Flood Management Area Maps shall have a flood protection elevation which provides two feet of freeboard above the Flood 1996 level. Flood 1996 inundation areas adjacent to Columbia River FIRM Flood Zone AE, Multnomah Drainage District No. 1, Peninsula Drainage District No. 2 Firm Zone AH and Columbia River FIRM Flood Zone A shall have freeboard of one foot.

**24.50.060 Provisions for Flood Hazard Reduction.**

(Amended by Ordinance Nos. 165678, 169905, 172209, 173979, 176955, 178741, 182370, 184235, 189338 and 189806, effective December 18, 2019.) In all flood hazard areas defined in Section 24.50.050, the following provisions are required:

- A.** Permits. All permit applications shall be reviewed to determine whether proposed building sites will be reasonably safe from flooding. A development or building permit shall be obtained before construction or development begins within any area of flood hazard. Such applications for permits shall include the following specific information:

  - 1.** Elevation of lowest floor, including basement, for all structures and floodproofed elevations for nonresidential structures.

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2. Elevation of lowest point of bridge structures.
  3. Existing and proposed topography of the site taken at a contour interval (normally 1 foot) sufficiently detailed to define the topography over the entire site and adjacent watercourses subject to flooding. Ninety percent of the contours shall be plotted within 1 contour interval of the true location.
  4. All necessary permits obtained from the federal and state governmental agencies from which prior approval is required.
  5. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 24.50.050 G.), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of any available hydrological data, drainage basin hydrology, historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.
- B.** Elevation reference. The survey reference datum for finished lowest floor including basement, floodproofed elevations, and finished site grades shall be either the North American Vertical Datum of 1988 or City of Portland datum, whichever is appropriate. When approved by the City Engineer, a local onsite survey reference datum may be adopted for FIRM Zones A and Unidentified Watercourse Flood Zones. The survey reference datum shall be indicated on all relevant plan and Section drawings, and the certified Flood-Elevation Certificate.
- C.** Certification of elevations and floodproofing. All finished elevations as specified hereunder shall be certified on a FEMA (FIA) Elevation Certificate by a licensed surveyor secured by the permittee, and made part of the permit records.
1. As-built elevation of lowest floor including basement, of all new or substantially improved structures;
  2. As-built floodproofed elevation of all new or substantially improved nonresidential structures;
  3. As-graded elevation of lowest grade within 25 feet of structures;
  4. As-graded elevation of lowest crawl space grade, as applicable.

All floodproofing materials and methods for nonresidential structures shall be certified by a licensed professional engineer or architect as meeting the criteria in Section 24.50.060 F7.

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- D.** Floodway. Encroachments into the floodway by development and structures defined in Section 24.50.020 are prohibited unless it is demonstrated by technical analysis from a registered engineer that the development will result in no increase in the base flood elevation. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement or other development (including fill) shall be permitted within Zone AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the community. Technical analysis shall be reviewed and approved by the Sewage System Administrator. However, the minimum width of the floodway shall not be less than 15 feet.
- E.** Alteration of watercourses. The Bureau of Development Services shall:
- 1.** Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse as identified in the Flood Insurance Study and Flood Insurance Rate Map, and submit evidence of such notification to the Federal Insurance Administration.
  - 2.** Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- F.** Flood hazard areas.
- 1.** General. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  - 2.** Residential construction.
    - a.** New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above flood protection elevation. Floodproofing of “lowest floor” space is not permitted.
    - b.** Fully closed areas below the lowest floor that are subject to flooding are prohibited or shall be used solely for parking of vehicles, building access or limited storage and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

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- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
  - (2) The bottom of all openings shall be no higher than one foot above grade;
  - (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

    - (a) Fills required to elevate the lowest floor to the flood protection level shall comply with Chapter 24.70. Fill selection and placement shall recognize the effects of inundation from floodwaters on slope stability, fill settlement, and scour. The minimum elevation at the top of the fill slope shall be at the base flood level. Minimum distance from any point of the building perimeter to the top of the fill slope shall be either 25 feet or twice the depth of fill at that point, whichever is the greater distance.
    - (b) Piling foundations required to elevate the lowest habitable floor to the flood protection level shall comply with Section 1809 and 1808 of the Structural Specialty Code. Pilings shall be spaced no more than 10 feet apart, and reinforcement shall be provided for piling more than 6 feet above the ground level.
3. Subdivision proposals.
- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
  - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
  - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
  - d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).



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4. Nonresidential construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the flood protection elevation, or, together with attendant utility and sanitary facilities, shall:
  - a. Be floodproofed so that below the flood protection elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
  - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this Subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Bureau of Development Services.
  - d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described for residential structures.
  - e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).
5. Manufactured homes. All manufactured homes to be placed or substantially improved within Zones AO, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the flood protection elevation and be securely anchored to prevent flotation, collapse or lateral movement and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Refer to FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
6. Utilities. All new and replacement water supply and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the sanitary sewage systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

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7. Construction materials and methods. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, using methods and practices that minimize flood damage. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be protected to or above the flood protection elevation.
  8. Balanced Cut and Fill Required. In all Flood Management Areas of the City not addressed by Section 24.50.060 G, balanced cut and fill shall be required. All fill placed at or below the base flood elevation shall be balanced with at least an equal amount of soil material removal. Soil material removal shall be within the same flood hazard area identified in Section 24.50.050 A. through I.
    - a. Excavation shall not be counted as compensating for fill if such areas will be filled with water in non-storm winter conditions.
    - b. Temporary fills permitted during construction shall be removed.
  9. Tank anchoring. Tanks containing hazardous materials must be anchored to prevent flotation if they are located in areas of special flood hazard or flood management areas.
  10. Uncontained hazardous materials as referred to in Section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S. Section 9601 et seq.) (CERCLA), section 502 (13) of the Clean Water Act and any other substances so designated by the Director of the Bureau of Development Services are prohibited in flood management areas.
  11. AH/AO Zone Drainage. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.
- G. Johnson Creek Flood Zones - Special Provisions.** In addition to other requirements of this chapter the following requirements shall apply within designated portions of the Johnson Creek Flood Zones:
1. All Johnson Creek Flood Zones
    - a. Balanced cut and fill. Within all areas of the Johnson Creek Flood Zones, all new fills below the base flood elevation shall be accompanied by an equal amount of excavation on the same site so that the storage capacity of the floodway and floodway fringe is retained.

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- b.** Mitigation payment allowed in lieu of balanced cut and fill. After September 1, 1998 residential properties within the area of the 100 year floodplain, but outside of the floodway and Flood Risk Area, and bounded by I-205 on the west, SE 142nd Avenue on the east, and the Springwater Corridor Trail on the south, may elect to pay into the Johnson Creek Fill Mitigation Bank in lieu of creating a balanced cut and fill. The amount of the payment shall be determined by the Bureau of Environmental Services.
- 2.** Johnson Creek Flood Risk Area. The following provisions shall apply within the Johnson Creek Flood Risk Area, as established in Chapter 33.535 of the City Code:

  - a.** Balanced cut and fill. The requirements of subsection G.1. above, shall apply within the Johnson Creek Flood Risk Area.
  - b.** Reduction in flooding capacity prohibited. Structures, fill or other development shall only be allowed in the Johnson Creek Flood Risk Area when they are designed so that there is no significant reduction in the storage capacity of the floodway and floodway fringe and there is no significant impediment to the passage of flood waters.
  - c.** Exceptions to Section 24.50.060 G.2.:

    - (1)** One story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.
    - (2)** Parking garages accessory to one and two family structures, provided the floor area does not exceed 300 square feet.
    - (3)** Fences which do not prevent the flow of water.
  - d.** Buildings designed to meet all of the following criteria shall be presumed to comply with Section 24.50.060.G.2.:

    - (1)** At least 50 percent of perimeter walls located at, or below, the base flood elevation shall remain open and unenclosed;
    - (2)** At least 25 percent of each perimeter wall located at, or below, the base flood elevation shall remain open and unenclosed; and
    - (3)** The footprint of all portions of the building located at, or below, the base flood elevation shall not exceed 15 percent

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of the footprint of the building located above the base flood elevation.

**24.50.065 Recreational Vehicles located in Areas of Special Flood Hazard or Base Flood Zones.**

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

- A.** Any recreational vehicle placed on a site located in either an Area of Special Flood Hazard or in the base flood zone shall:
  - 1.** Meet the elevation and anchoring requirements for manufactured homes;
  - 2.** Be on the site for fewer than 180 consecutive days; or
  - 3.** Be fully licensed and ready for highway use. As used in this section, “ready for highway use” means that the vehicle is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions.
- B.** For the purpose of this section, “recreational vehicle” means any vehicle which is:
  - 1.** Built on a single chassis;
  - 2.** 400 square feet or less when measured at the largest horizontal projection;
  - 3.** Designed to be self propelled or permanently towable by a light duty truck; and
  - 4.** Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**24.50.070 Appeals and Variances.**

(Amended by Ordinance No. 178741, effective October 19, 2004.)

- A.** Appeals. Any person aggrieved by a requirement, decision, or determination made pursuant to the administration of this Chapter may appeal such action to the Building Board of Appeal in accord with Chapter 24.10.
- B.** Variances. If variances from requirements of this Chapter are requested, all relevant factors and standards specified in other sections of this Chapter shall be considered, as well as the following:
  - 1.** The danger that materials may be swept into other lands to the injury of others;
  - 2.** The danger to life and property due to flooding or erosion damage;

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3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations, not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing anticipated development;
8. The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges; Upon consideration of the factors listed above and the purposes of this Chapter, such conditions may be attached to the granting of variances as deemed necessary.

**C. Conditions for variances.**

1. Generally the only condition under which variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1-11) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.
2. Variances shall not be issued within designated floodway if any increase in flood levels during the base flood discharge would result.
3. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State

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Inventory of Historic Places, without regard to the procedures set forth in this Section.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
  - a. A showing of good and sufficient cause,
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - c. A determination that the granting of a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
7. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
8. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 24.50.070 C.1. and otherwise complies with Section 24.50.060 F.1. and 24.50.060 F.7.

**CHAPTER 24.51 - WILDFIRE HAZARD  
ZONES**

(Chapter added by Ordinance No. 177433, effective  
May 30, 2003.)

**Sections:**

- 24.51.010 Purpose.
- 24.51.020 Definitions.
- 24.51.030 Wildfire Hazard Zone Map Adoption.
- 24.51.040 Map Revision Process.
- 24.51.050 Appeals of Decisions Made by the Chief.
- 24.51.060 General.

**24.51.010 Purpose.**

The purpose of this Chapter is to adopt the criteria that will be used to specify areas of the City to be classified as Wildfire Hazard Zones, so that roof materials may be limited.

**24.51.020 Definitions.**

(Amended by Ordinance No. 180917, effective May 26, 2007.) The definitions contained in this Section relate to Wildfire Hazard zones and considerations outlined in this Chapter.

- A.** Chief means the Chief of Portland Fire & Rescue or the Chief's duly authorized representative.
- B.** Department of Forestry (DOF) means the State of Oregon Department of Forestry.
- C.** Wildfire Hazard Zone means those areas of the City as determined by the Chief that rate a minimum score of 5 or higher using the following criteria developed by DOF:
  - 1.** Topography hazard factor value
  - 2.** Natural vegetative fuel hazard factor value
  - 3.** Natural vegetative fuel distribution hazard factor value
- D.** Wildfire Hazard Zone Map means the WHZM attached to Ordinance No. 177433 and as it may be amended from time to time based on the criteria herein.
- E.** Hazard Factor. Hazard Factors are topography, certain natural vegetative fuels and natural, vegetative fuel distribution. Any of these factors, or a combination thereof, may cause an area of the City to be included within a Wildfire Hazard Zone.
- F.** Topography Hazard Factor Value means the hazard value as determined by DOF associated with site slope which effects the fire spread velocity.

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- G.** Natural Vegetative Hazard Factor Value means the numerical value assigned by DOF, extrapolated from the “Aids to Determining Fuel Models for Estimating Fire Behavior” published by the Forest Service, USDA Intermountain Forest and Range Experiment Station in 1982 as General Technical Report INT-122, for various common vegetation.
- H.** Natural Vegetative Fuel Distribution Hazard Factor Value means the numerical value assigned by DOF for the percentage of site that is covered by vegetation described in 24.51.020 G.

**24.51.030 Wildfire Hazard Zone Map Adoption.**

- A.** Wildfire Hazard Zone Map Adoption.
  - 1.** A Wildfire Hazard Zone Map (WHZM) has been developed for the City of Portland through a review of topography, weather, type vegetation and fuel density. This map is dated October 11, 2002.
  - 2.** The WHZM dated October 11, 2002, is hereby adopted by reference and incorporated into this ordinance.
  - 3.** The Chief shall provide the Director with a copy of the official map adopted in Subsection one of this Section. Copies of the map shall be available for review in the Development Services Center, First Floor 1900 SW 4th Avenue, Portland Oregon.
- B.** Revisions to the Wildfire Hazard Zone Map.
  - 1.** The WHZM may be amended from time to time to either include or exclude properties as the facts may warrant.
  - 2.** The Chief shall have the authority to revise the Wildfire Hazard Zone Map.
  - 3.** All Wildfire Hazard Zone map revisions shall be determined using the criteria set forth below. Any site having a cumulative hazard value of five (5) or more shall be included in a wildfire hazard zone.
    - a.** Topography Hazard Factor Value. The topography hazard value shall be calculated as follows:
      - (1)** Determine site slope using the appropriate 7.5 minute quadrangle map published by the U.S. Geological Survey, USDI.
      - (2)** Select appropriate hazard value using Table 1.



**TABLE 1  
APPROPRIATE TOPOGRAPHY  
HAZARD FACTOR VALUE**

Site Slope as determined by the 7.5 minute quadrangle map	Hazard Value
Slopes 00 to < 03%	0
Slopes 03 to < 12%	1
Slopes 12 to < 20%	2
Slopes 20% or greater	3

- b.** Natural Vegetative Fuel Hazard Factor Value. The natural vegetative fuel hazard value shall be calculated as follows:
- (1)** Divide the jurisdiction into geographic areas which best describe the natural vegetation expected to occupy sites for the next 10 to 15 years.
  - (2)** Select the appropriate hazard value from Table 2.

**TABLE 2  
NATURAL VEGETATIVE FUEL  
HAZARD FACTOR VALUE**

Natural Vegetative Fuel Description 1		Hazard Value 2
<b>Limited</b>	Little or no natural vegetative fuels are present.	0
<b>Grass</b>	Very little shrub or timber is present, generally less than one-third of the area. Main fuel is generally less than two feet in height. Fires are surface fires that move rapidly through cured grass and associated material. (Fuel model 1)	3

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<b>Natural Vegetative Fuel Description 1</b>		<b>Hazard Value 2</b>
<b>Grass</b>	Open shrub lands and pine stands or scrub oak stands that cover one-third to two-thirds of the area. Main fuel is generally less than two feet in height. Fires are surface fires that spread primarily through the fine herbaceous fuels, either curing or dead. (Fuel model 2)	3
<b>Grass</b>	Beach grasses, prairie grasses, marshland grasses and wild or cultivated grains that have not been harvested. Main fuel is generally less than four feet in height, but considerable variation may occur. Fires are the most intense of the grass group and display high rates of spread under the influence of wind. (Fuel model 3)	3
<b>Shrubs</b>	Stands of mature shrubs have foliage known for its flammability, such as gorse, manzanita and snowberry. Main fuel is generally six feet or more tall. Fires burn with high intensity and spread very rapidly. (Fuel model 4)	3
<b>Shrubs</b>	Young shrubs with little dead material and having foliage not known for its flammability, such as laurel, vine maple and alders. Main fuel is generally three feet tall or less. Fires are generally carried in the surface fuels and are generally not very intense. (Fuel model 5)	1

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<b>Natural Vegetative Fuel Description 1</b>		<b>Hazard Value 2</b>
<b>Shrubs</b>	Older shrubs with foliage having a flammability less than fuel model 4, but more than fuel model 5. Widely spaced juniper and sagebrush are represented by this group. Main fuel is generally less than six feet in height. Fires will drop to the ground at low wind speeds and in stand openings. (Fuel model 6)	2
<b>Timber</b>	Areas of timber with little undergrowth and small amounts of litter buildup. Healthy stands of lodgepole pine, spruce, fir and larch are represented by this group. Fires will burn only under severe weather conditions involving high temperatures, low humidity and high winds. (Fuel model 8)	1
<b>Timber</b>	Areas of timber with more surface litter than fuel model 8. Closed stands of healthy ponderosa pine and white oak are in this fuel model. Spread of fires will be aided by rolling or blowing leaves. (Fuel model 9)	2
<b>Timber</b>	Areas of timber with heavy buildups of ground litter caused by over-maturity or natural events of wind throw or insect infestations. Fires are difficult to control due to large extent of ground fuel. (Fuel model 10)	3
<p><b>1.</b> Some areas may contain vegetative fuels other than those listed in Table 2. Additional natural fuel hazard factors may be found in “Aids to Determining Fuel Models for Estimating Fire Behavior” published by the Forest Service, USDA Intermountain Forest and Ranger Experiment Station in 1982 as General Technical Report INT-122. Vegetative fuel hazard factors determined using General Technical Report INT-122 shall be used as alternative factors, for review under this chapter, as the facts warrant.</p>		

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<b>Natural Vegetative Fuel Description 1</b>	<b>Hazard Value 2</b>
<p><b>2.</b> Due to various factors, such as variations in local vegetation species or vegetation conditions, the fuel models used in Table 2 may not accurately portray wildfire behavior. The Chief may make modifications to the hazard values as necessary to accurately reflect the following characteristics:</p> <p>(a) A hazard value of 1 shall describe vegetation that typically produces a flame length of up to 5 feet, a wildfire which exhibits very little spotting, torching, or crowning, and which results in a burned area that can normally be entered within 15 minutes.</p> <p>(b) A hazard value of 2 shall describe vegetation that typically produces a flame length of 5 to 8 feet, a wildfire which exhibits sporadic spotting, torching, or crowning, and which results in a burned area that can normally be entered within one hour.</p> <p>(c) A hazard value of 3 shall describe vegetation that typically produces a flame length of over 8 feet, a wildfire that exhibits frequent spotting, torching, or crowning, and which results in a burned area that normally cannot be entered for over one hour.</p>	

- c.** Natural Vegetative Fuel Distribution Hazard Factor Value . To determine the natural vegetative fuel distribution hazard factor value:
- (1)** Determine the percentage of each individual area that is covered by vegetation.
  - (2)** Using the calculated percentage, assign a value using Table 3.

**TABLE 3  
NATURAL VEGETATIVE FUEL  
DISTRIBUTION HAZARD FACTOR**

<b>Natural Vegetative Fuel Distribution</b>	<b>Hazard Value</b>
0 to 10% of the area	0
10 to 25% of the area	1
25 to 40% of the area	2

**24.51.040 Map Revision Process.**

- A.** Wildfire Hazard Zones may be applied to or removed from areas of the City as follows:

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1. During periodic review by the Chief, based upon the criteria listed in section 24.51.030. Periodic review shall occur every 5 years.
  2. Upon request to the Chief by any property owner, prior to periodic review, on the grounds that conditions have changed.
- B.** Prior to applying the Wildfire Hazard Zone to any property the Chief shall provide notice of such proposed zoning and provide a date for a public hearing.

The notice shall be sent to all properties to which the zone would be applied. The notice shall be sent fourteen days prior to the date of the hearing. Extensions of time for the hearing may be requested and may be provided by the Chief. The notice shall provide information regarding the City's intention to apply the Wildfire Zone, the reasons therefore and the time and place for the hearing.

Within 7 days of the hearing the Chief shall issue a written decision, based upon the criteria listed above, and which shall include findings supporting that decision and shall contain information regarding the right to appeal the Chief's decision to the Bureau of Development Service's Appeals Board (Board). A copy of the decision shall be sent to all properties that received notice of the City's intention to include these properties within a Wildfire Hazard Zone.

- C.** When a property owner provides the Chief with a written request that the Wildfire Hazard Zone be removed from specific property the Chief shall consider the request and, based upon the criteria listed above, shall either approve or deny the request.

Such action by the Chief shall occur within 14 days of the date of the request and shall be in writing, shall include findings based upon the facts and criteria and shall contain information regarding the right to appeal the Chief's decision to the Board. This decision shall be mailed to the property owner requesting the change in status.

**24.51.050 Appeals of Decisions Made by the Chief.**

Notwithstanding any contradictory portion of Code Section 24.10.080:

- A.** Any decision made by the Chief, regarding the application of a Wildfire Hazard Zone to any area in the City, may be appealed to the Bureau of Development Services Board of Appeals (Board) solely in accordance with this subsection. In considering such appeals the Board shall act solely in accord with this section.
- B.** Such appeal shall be in writing and shall be filed with the Board within fourteen days of the date of the Chief's decision. The appeal shall include a statement regarding the elements of the Chief's decision with which the appellant takes issue. Reference to facts and the criteria listed above, is required.

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- C.** A copy of the appeal shall be provided to the Chief at the same time that it is filed with the Board. The Chief shall have fourteen days from the date of the appeal to respond, in writing, to the Board and all appellants.
- D.** The Board shall issue a notice of a hearing date and the place and time of the hearing. Notice shall be provided to the appellants and the Chief.
- E.** The Board shall then hold a hearing upon any such appeal. After considering the issues raised on appeal, and the reasonableness of the Chief's interpretation of applicable criteria, the Board shall, by majority vote, affirm or modify the Chief's decision. The Board's decision shall be based solely upon the criteria set out in this Chapter and shall include findings addressing the facts and the criteria. The decision of the Board shall have full force and effect. A certified copy of the decision shall be delivered to the appellant.

Any appeal of the Board's decision shall by writ of review.

**24.51.060 General.**

(Amended by Ordinance Nos. 178745 and 179125, effective April 1, 2005.)

- A.** In addition to the other City codes, all structures located in wildfire hazard zones as identified in the Wildfire Hazard Zone map shall meet the applicable requirements in the State of Oregon Structural Specialty Code or the Residential Specialty Code as applicable.
- B.** The requirements in Chapter 24.75, Uniform Building Address System, supercede the requirements found in OSSC Appendix L, Section L101.7, for premises identification.

**CHAPTER 24.55 - BUILDING DEMOLITION**

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

**Sections:**

- 24.55.100 Demolition - Debris - Barricades - Nuisances.
- 24.55.150 Definitions.
- 24.55.200 Residential Demolition Delay - Housing Preservation.
- 24.55.205 Site Control Measures in Residential Demolitions.
- 24.55.210 Major Residential Alterations and Additions.

**24.55.100 Demolition - Debris - Barricades - Nuisances.**

(Amended by Ordinance Nos. 171455, 187017 and 189012, effective June 13, 2018.) It is unlawful for any owner or persons in control of any such structure which is being demolished, or which has been damaged by fire, to leave any portion of the structure unsupported for more than 1 hour, if such section is liable to collapse or is in any way a danger to the public. In no event shall a portion of the structure be left unsupported for more than 24 hours. Suitable barricades shall be provided to prevent access to the vicinity of any unsupported section of the structure. Any permanent structural supports provided as a result of application to this section shall be designed by a structural engineer registered to practice in the State of Oregon and hired by the applicant. All such designs, calculations, drawings, and inspection reports shall be approved by the Director.

All combustible debris or material shall be removed from the premises on which the demolition is carried out within 30 days from the completion of the demolition, or from the stoppage of the work thereon if the work remains uncompleted. All non-combustible debris or material resulting from demolition shall be removed within 30 days after the completion of the demolition or stoppage thereof, unless the Director extends the time therefore because of weather, terrain, or other special circumstances, but such extension shall not exceed 3 months. It is unlawful for any owner or person in possession of real property to permit the debris to remain on the property without disposal in excess of the periods mentioned above or of any specific extension thereof as set forth above.

Any of the above-mentioned things existing while there is a duty to remove or correct the same, shall constitute a public nuisance. Any unsupported portions of a building or structure existing beyond the periods set forth above shall be subject to summary abatement by the City. The abatement shall be in accordance with the procedure set forth in Title 29, Chapter 29.60, Administration and Enforcement.

All structures to be demolished shall be taken down in a safe manner. The streets or sidewalks shall not be littered with rubbish and shall be wet down, if necessary. During any demolition work, all receptacles, drop boxes, shafts, or piping used in such demolition work shall be covered in an appropriate manner. After removal of any structure all foundations that are not to be used for new construction shall be removed and all excavations filled in compliance with Chapter 24.70 of this Title, to a level of the adjoining grade. Plans shall be submitted for any new construction proposed, utilizing the remaining foundations. Any remaining foundations approved for further use shall be barricaded by a

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fence no less than 6 feet high maintained until the new construction has progressed 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; amended by Ordinance Nos. 188802, 189012, 189078 and 190126, effective October 16, 2020.)

- A.** Demolition. Demolition means removal of all exterior walls above the foundation.
- B.** Major Residential Addition. Major residential addition means adding more than 500 square feet of new interior space and expanding the structure’s footprint or envelope. The new interior space does not include areas of existing space within the building envelope.
- C.** Major Residential Alteration. Major residential alteration means removing 50 percent or more of the exterior walls above the foundation.
- D.** Recognized organization. Recognized organization includes neighborhood coalitions and neighborhood associations recognized by the Portland Office of Community & Civic Life.
- E.** Demolition Manager. Demolition manager means the person designated by the property owner or demolition permit applicant who will be responsible for implementing and overseeing the Demolition Plan and who will be the contact person for BDS and other regulatory agencies regarding the Demolition Plan. The Demolition Manager is a “responsible party” as defined in this Section 24.55.150.
- F.** Demolition Plan. Demolition plan means the plan signed by the Demolition Manager that outlines the techniques and equipment that will be used during all demolition activities to ensure compliance with dust suppression as required, reviewed and approved by the Bureau of Development Services. (See also Administrative Rule Related to Chapter 24.55 – Demolitions.)
- G.** Mechanical demolition activities. Mechanical demolition activities means pulling down any part of a structure using mechanical tools such as cranes, bulldozers, excavators, rams, or similar heavy machinery. Mechanical demolition activities also includes mechanical loading and transfer of demolition materials.
- H.** Lead-based paint. Lead-based paint means any paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter, 0.5 percent by weight, or 5,000 parts per million (ppm).



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- I. Responsible party. Responsible party means the property owner or any other person authorized to act on the owner's behalf and any person causing or contributing to a violation of this Title.

**24.55.200 Residential Demolition Delay - Housing Preservation.**

(Amended by Ordinance Nos. 171455, 176955, 187017, 187711, 188259, 188802 and 189012, effective June 13, 2018.)

- 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 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 that are regulated under the Oregon Residential Specialty Code and that are located 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

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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,
  - 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. Not more than 2 weeks nor less than 72 hours before demolition activity commences, the applicant must post door hangers provided by the Bureau of Development Services on all properties within 300 feet of the site to be demolished. The notice must contain all of the following information.
- a. Name and phone number of the Demolition Manager.
  - b. Notice that the site has been proposed for demolition,
  - c. The demolition permit number,
  - d. The approximate date demolition activity will commence,
  - e. Contact information of the agencies that regulate asbestos and lead-based paint,
  - f. Contact information for the applicant,
  - g. Recommended safety information for surrounding properties, such as closing windows and keeping children away from the site, and
  - h. The location where more information is available.

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- 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 waiver of the fee and a copy of the letter requesting a meeting with the property owner as described in Subsection 24.55.200 H.1. below. 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 a copy of the letter requesting a meeting with the property owner as described in Subsection 1. below. 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

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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 by submitting evidence to the Code Hearings Officer, either with the appeal application or at the appeal hearing:

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 proposed budget and either evidence of funds on hand or a fund raising plan sufficient to meet the financial requirements of that budget. "Consummate the plan" as used in this Subsection means coming to an agreement among the parties within the 95 days; it does not mean that the plan itself must be completed in that time.
- 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

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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 provisions of Title 33. In this situation, the provisions of Title 33, Planning and Zoning, apply to the application. Any application not subject to the demolition review provisions of Title 33 is subject to the demolition delay provisions of this Section (24.44.200).

**24.55.205 Site Control Measures in Residential Demolitions.**

(Added by Ordinance No. 188802; amended by Ordinance Nos. 189012, 190126 and 190274, effective February 26, 2021.)

- A. Scope.** The provisions of this Section 24.55.205 apply to the following, regardless of zoning or Comprehensive Plan Map designation:
1. Demolition of structures used for residential purposes with four or fewer dwelling units, including mixed use structures. “Mixed use” for purposes of this Section 24.55.205 means the combination on a site of residential uses with commercial or industrial uses.
  2. Any detached accessory structures with a floor area over 200 square feet on a site with a structure covered by Subsection 1. above.
  3. Major residential alterations, as that term is defined in Section 24.55.150. Except for this Subsection A., whenever the term “demolition” is used in this Section 24.55.205, it includes major residential alterations.
- B. Documentation Required.** A permit to demolish a structure within the scope of this Section as defined in Subsection A. above will not be issued until the Bureau of Development Services (BDS) has received all of the following:

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1. A copy of the asbestos survey required under Oregon Revised Statutes 468A.757 and Oregon Administrative Rules Chapter 340, Division 248, Section 0270, as each of these is amended from time-to-time.
2. If asbestos is identified in the asbestos survey: A close-out letter from the licensed asbestos abatement contractor verifying all of the asbestos identified in the asbestos survey has been abated and all required DEQ notification forms and the asbestos waste shipment form.
3. A Demolition Plan as described in Section 24.55.150.
4. The applicant must provide a lead-based paint inspection report in order to seek an exemption from the lead-hazard reduction requirements in Subsection C.1. of this section. The requirements for the inspection report will be contained in the BDS Administrative Rule Related to Chapter 24.55 – Demolitions.
5. Verification of all required certifications as described in the BDS Administrative Rule Related to Chapter 24.55 – Demolitions.

**C. Requirements for Demolitions**

1. Lead hazard reduction. Prior to commencing mechanical demolition activities, all painted exterior non-structural surfaces, including, but not limited to, doors, windows, railings, soffits, trim, exterior porches (except for concrete or masonry materials), and all layers of siding (unless such surfaces have been tested as set forth in Section B.4. above and found not to contain lead-containing paint) must be removed, and all such materials must be placed in 6 mil plastic and deposited in a covered container. During the removal of these exterior painted materials, 6-mil plastic sheeting or equivalent must be placed at the base of the exterior shear wall and extend at least 10 feet beyond the perimeter of the structure or work area, whichever is greater. If a property line prevents 10 feet of ground covering, vertical containment must be erected to protect neighboring properties.

All lead hazard reduction work must be completed and inspected by BDS as outlined in the BDS Administrative Rule Related to Chapter 24.55 – Demolitions.

2. Dust suppression. During mechanical demolition activities, including transfer and loading of materials, the structure, mechanical equipment parts that come in direct contact with building materials, and debris must be continuously wetted with a water spray sufficient in volume and force to prohibit airborne emission of dust and particulates from leaving the site. In addition, all debris piles must be wetted down each day prior to

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commencing mechanical demolition activities and at the end of each day during which mechanical demolition activities have occurred.

3. Wind speed. Mechanical demolition activities must be suspended when winds exceed 25 MPH, verified regularly during mechanical demolition activities by using a hand-held anemometer prior to commencing mechanical demolition activities each day and any time wind speeds noticeably increase. Only deconstruction or other activities that do not generate dust may be conducted on the site when winds exceed 25 MPH.
4. Debris containment/management: All demolition debris must be contained on site per the requirements set forth in the BDS Administrative Rule Related to Chapter 24.55 – Demolitions.
5. Runoff. All stormwater or any other water generated on the site that pools or is collected on the site must comply with all City requirements for water discharge.
6. Exemption for Unsafe or Hazardous Structures. An applicant may request an exemption from the lead hazard reduction requirements in Subsection 2. above if the structure is structurally unsafe or otherwise hazardous to human life to the extent that the activities described in Subsection 2. above could not be safely executed. The request must accompany the application for the demolition permit, unless the unsafe or hazardous condition is not discovered until after the permit application has been submitted. Reasons for exemption consideration could include, but are not limited to, extensive fire damage, drug manufacturing, or severe structural issues that cannot be mitigated without complete mechanical demolition. Request for an unsafe or hazardous structure exemption must be submitted to the Bureau of Development Services and include all of the following:
  - a. A letter on company or organization letterhead from one of the following professionals stating that performing the lead hazard reduction requirements would not be safe:
    - (1) Structural Engineer licensed in the State of Oregon.
    - (2) Hazardous material professional with credentials to perform work in the State of Oregon.
  - b. A statement by a professional listed in Subsection a. above who provides a letter indicating that neither the professional, a relative of the professional, nor a business entity with which the professional is associated has a financial or other interest in the property or project. “Relative” means the spouse, parent, stepparent, child, sibling, step-

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sibling, son-in-law, or daughter-in-law of the professional.

- c. Supporting evidence documenting the condition of the structure and reasons why the lead hazard reduction activities are not recommended due to safety concerns.

7. Notification and Posting.

- a. All demolitions that are subject to the provisions of this Section 24.55.205 must comply with the notification requirements in Subsection 24.55.200 D.2.
- b. All such sites must also be posted with a sign during demolition activities that meets the requirements set forth in the BDS Administrative Rule Related to Chapter 24.55 – Demolitions.

**D. Demolition-Related Inspections**

- 1. BDS will conduct a pre-demolition inspection to determine whether the site control measures outlined in the Demolition Plan, along with erosion and sediment control measures are adequate based on specific site conditions or other City regulations. This initial inspection will be used to review the Demolition Plan, including any necessary permanent site control measures. In addition, the initial pre-demolition inspection will ensure that there is a Demolition Manager and that a copy of the Demolition Plan is on site.
- 2. BDS will conduct inspections during demolition activities to confirm the Demolition Plan is being properly implemented and maintained during the demolition process. BDS will verify that exterior painted surfaces are removed, as required, prior to beginning mechanical demolition and required wetting for dust suppression is operational during the start of mechanical demolition.
- 3. BDS will conduct a post-demolition inspection to verify that the structure(s) and all demolition-related debris has been removed as detailed in the Demolition Plan and that the site is free of debris and Title 10 erosion and sediment control requirements are met.

**E. Enforcement and Fines**

- 1. Enforcement. Enforcement of this Section 24.55.205 is set forth in the BDS Administrative Rule Related to Chapter 24.55 – Demolitions.
- 2. Fines. Fines are established for violations of this Section 24.55.205 as set forth in the Enforcement Fee and Penalty Schedule as adopted by the City Council. These fines will be assessed as a result of an issued citation for



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violations of this Section 24.55.205 and are in addition to any other fines authorized by law. See Administrative Rule Related to Chapter 24.55 – Demolitions.

3. Administrative Review and Appeals. If a responsible party has received a stop work order or written citation and the responsible party believes the order or citation was issued in error, the responsible party may request that the order or citation be reviewed by the Director or designee. The responsible party must submit a written request for an Administrative Review within 15 calendar days of the date of the order or citation, along with the Administrative Review appeal fee. (See current BDS Enforcement Fee Schedule). The appeal fee is due when the written request for an Administrative Review is submitted to BDS. This fee will only be refunded if it is determined that all of the contested violations were cited in error. A written Administrative Review determination will be served on the responsible party by regular mail.

Additionally, the party that sought the Administrative Review may appeal the written Administrative Review determination to the City Code Hearings Office in accordance with Chapter 22.10 of the Portland City Code.

- F. Demolition Permit Compliance Prerequisite for New Building Permit. No building permit for a new structure on the site that is subject to the demolition permit (including all lots in a land division or lot confirmation) will be issued until the final inspection for the demolition permit has been completed and approved.

**24.55.210 Major Residential Alterations and Additions.**

(Added by Ordinance No. 187017; amended by Ordinance Nos. 189012 and 190274, effective February 26, 2021.)

- 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 provisions apply. The major residential alteration and addition delay applies to sites with residential structures that are regulated under the Oregon Residential Specialty Code and that are located in areas with a residential Comprehensive Plan Map designation. The delay provisions 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.

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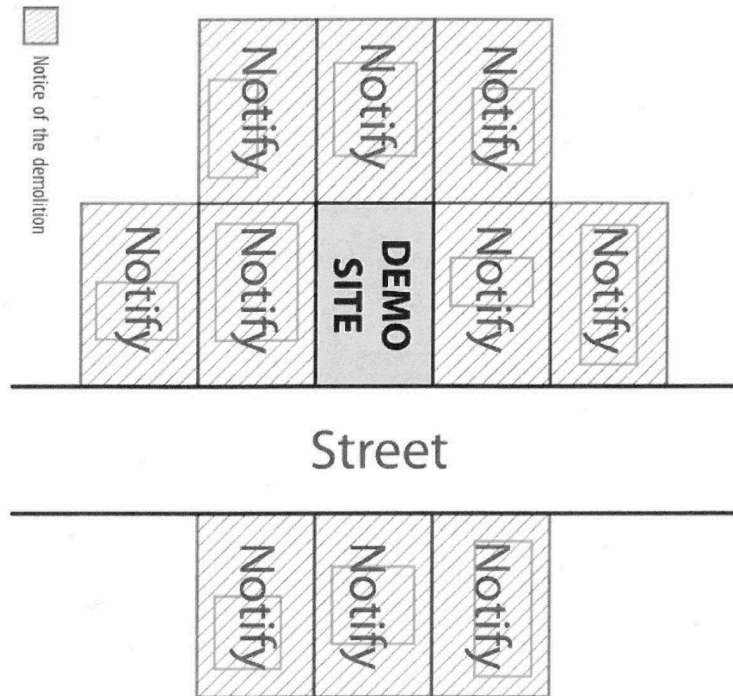
- 1.** Emailed notice. At least 35 days before a building permit is issued for a major residential alteration or addition, the applicant for the permit must email a letter to the recognized organization(s) whose boundaries include the site that contains at least the following information.

    - 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 a major residential addition, the applicant must post door hangers provided by the Bureau of Development Services on the 10 surrounding properties from the site of the project. See Figure 210-1 below for a typical configuration. The notice must contain all of the following information.

    - a.** Notice that an application for a major 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,
    - 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. For major residential additions, 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.

FIGURE 210-1



**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.)

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**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.)

**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.)

**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.

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**CHAPTER 24.65 - SIDEWALK VAULT  
OPENINGS**

**Sections:**

- 24.65.010 Location of Sidewalk Vault Openings.
- 24.65.020 Number of Sidewalk Vault Openings.
- 24.65.030 Sidewalk Elevators.
- 24.65.040 Operation of Sidewalk Elevators.
- 24.65.050 Plans Required.

**24.65.010 Location of Sidewalk Vault Openings.**

The outer edge of all openings constructed in sidewalks for fuel, elevators, stairs, or other purposes shall be located not less than 2 feet from the curb line and the inner edge of any sidewalk opening will not be any closer than 3 feet to the property line.

**24.65.020 Number of Sidewalk Vault Openings.**

There shall not be more than one opening for each individual building frontage and in no case openings closer than 25 feet to an existing sidewalk opening.

**24.65.030 Sidewalk Elevators.**

Openings in sidewalks provided for in Section 24.65.010 shall be supplied with doors attached to a frame built into the sidewalk and shall be capable of supporting a load of 100 pounds per square foot. The door shall be constructed of sheet steel or other approved metal which has an approved non-slip surface. The dimensions of the door in any direction shall not exceed the dimension of the opening by more than 6 inches. The doors and frames shall be so constructed and maintained that there is no projection above or below the sidewalk exceeding 1/4 inch and existing doors which do not conform to the requirements shall be changed to conform within a period of 10 days after notice is given to change the same. Sidewalk doors shall be provided with a metal guard which, when the doors are open, will hold the doors open. This guard shall be located on the side of the sidewalk opening nearest the property line. The guard shall be made in the form of a grating with openings not exceeding 6 inches in dimension and so arranged that a child cannot get under or through the guard. This guard shall not be required for doors having metal gratings which are level with the sidewalk when the doors are open and the elevator platform is below the sidewalk level. Such gratings shall be capable of supporting a load of 100 pounds per square foot. Elevators having these sidewalk gratings shall be provided with a 3/4-inch steel bar to hold the doors open.

**24.65.040 Operation of Sidewalk Elevator.**

- A.** When not in operation the elevator shall be kept in its down position and the sidewalk doors shall be closed.
- B.** When the elevator is being raised, pedestrians shall be warned of the fact by an automatic warning device approved by the Director.

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- C. The sidewalk elevator shall not be raised sooner than 15 minutes prior to a delivery and shall be placed in a down position and the sidewalk doors closed within 15 minutes of the completion of a delivery.

**24.65.050 Plans Required.**

The construction of sidewalk vaults shall be considered as part of a building and plans shall be submitted showing the construction of the same.

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**CHAPTER 24.70 – CLEARING, GRADING,  
AND RETAINING WALLS**

(Chapter amended by Ordinance Nos. 184522,  
185448, 186053 and 188884, effective April 4,  
2018.)

**Sections:**

24.70.010	General.
24.70.020	Permits.
24.70.030	Hazards.
24.70.040	Special Definitions.
24.70.050	Information on Plans and in Specifications.
24.70.060	Bonds.
24.70.070	Cuts.
24.70.080	Fills.
24.70.085	Retaining Walls.
24.70.090	Setbacks.
24.70.100	Drainage and Terracing.
24.70.120	Grading Inspection.
24.70.130	Completion of Work.

**24.70.010 General.**

(Amended by Ordinance Nos. 165678, 168340, 184522, 185448 and 186053, effective January 1, 2015.) The provisions of this Chapter shall regulate clearing, grading and earthwork construction on private property. Tree removal, whether associated with clearing, grading, earthwork construction or conducted separately shall be regulated pursuant to Title 11, Trees. Erosion control is regulated by Title 10.

**24.70.020 Permits.**

(Amended by Ordinance Nos. 165678, 168340 172209, 173532, 173979, 184522, 185448, 186053 and 188884, effective April 4, 2018.) Permits for clearing, grading, and retaining walls are required as specified in this Section. Where a specific activity does not require a clearing or grading permit, a separate tree permit may still be required, as specified in Title 11 Trees. Where a clearing or grading development permit shows trees to be removed and has been reviewed and approved by the City, a separate tree permit is not required in conjunction with the clearing or grading permit. An erosion, sediment and pollutant control plan if required by Title 10 shall be submitted with clearing or grading permit applications. Applicants for permits made in conjunction with land divisions shall be responsible for all clearing, grading, tree removal and erosion control within the land division, even where a specific activity is exempt from an individual permit.

- A.** Clearing Permits. A permit is required and shall be issued in accordance with Section 24.10.070 for clearing activities in the following areas:



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1. The Tualatin River sub-basins, Johnson Creek Basin Plan District, environmental zones, greenway zones, or natural resource management plans; or
  2. Property larger than five acres. Except that no permit shall be required for clearing an area less than 5,000 square feet.
- B.** Grading Permits. A permit is required and shall be issued in accordance with Section 24.10.070 for all grading operations with the exception of the following:
1. Grading in an area, where in the opinion of the Director, there is no apparent danger, adverse drainage, or erosion effect on private/public property, or inspection is not necessary;
  2. An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure.
  3. Cemetery graves.
  4. Refuse disposal sites controlled by other regulations.
  5. Excavations for wells or tunnels.
  6. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate, or clay where established and provided for by law provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.
  7. Exploratory excavations under the direction of soil (geotechnical) engineers or engineering geologists.
  8. An excavation which
    - a. Is less than 2 feet in depth, or
    - b. Which does not create a cut slope greater than 5 feet in height and steeper than 1-1/2 horizontal to 1 vertical.
  9. A fill less than 1 foot in depth, and placed on natural terrain with a slope flatter than 5 horizontal to 1 vertical, or less than 3 feet in depth, not intended to support structures, which does not obstruct a drainage course and which does not exceed 10 cubic yards on any one lot.

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- C. Retaining Walls. A permit is required and shall be issued in accordance with Section 24.10.070 for all retaining walls over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, and for retaining walls supporting a surcharge.
- D. Tree Removal. Removal of trees six-inches and larger in diameter shall be reviewed with the clearing or grading permits as part of the Tree Plan review pursuant to Title 11. When removing 5 or more trees on a site with an average slope of at least 20 percent, applicants shall provide a geotechnical engineering report that assesses the stability of the site after tree felling and root grubbing operations.
- E. Permits required under this Chapter shall be obtained before the commencement of any tree removal, root grubbing or soil disturbance takes place.

**24.70.030 Hazards.**

(Amended by Ordinance Nos. 165678 and 188884, effective April 4, 2018.) The Director may determine that any clearing, grading, retaining wall, or geologic condition on private property has or may become a hazard to life and limb, or endanger property, or cause erosion, or adversely affect drainage or the safety, use or stability of a public way or drainage channel. Upon receipt of notice in writing from the Director, the owner shall mitigate the hazard and be in conformity with the requirements of this Title. The Director may require that plans and specifications and engineering reports be prepared in compliance with this Chapter.

**24.70.040 Special Definitions.**

(Amended by Ordinance No. 188884, effective April 4, 2018.) The definitions contained in this Section relate to excavation and grading work only as outlined in this Chapter.

- A. “Approval” shall mean a written engineering or geological opinion concerning the progress and completion of the work.
- B. “As graded” is the surface conditions exposed on completion of grading.
- C. “Bedrock” is in-place solid rock.
- D. “Bench” is a relatively level step excavated into earth material on which fill is to be placed.
- E. “Borrow” is earth material acquired from an off-site location for use in grading on a site.
- F. “Civil engineer” shall mean a professional engineer registered in the State to practice in the field of civil works.

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- G.** “Civil engineering” shall mean the application of the knowledge of the forces of nature, principles of mechanics, and the properties of materials to the evaluation, design, and construction of civil works for the beneficial uses of mankind.
- H.** “Clearing” is the cutting or removal of vegetation which results in exposing any bare soil.
- I.** “Compaction” is the densification of a fill by mechanical means.
- J.** “Earth material” is any rock, natural soil, or fill and/or any combination thereof.
- K.** “Engineering geologist” shall mean a geologist experienced and knowledgeable in engineering geology and registered as an engineering geologist in the State of Oregon.
- L.** “Engineering geology” shall mean the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.
- M.** “Erosion” is the wearing away of the ground surface as a result of the movement of wind, water, and/or ice.
- N.** “Excavation” is the mechanical removal of earth material.
- O.** “Fill” is a deposit of earth material placed by artificial means.
- P.** “Geological hazard” shall mean a potential or apparent risk to persons or property because of geological or soil instability either existing at the time of construction or which would result from construction.
- Q.** “Grade” shall mean the vertical location of the ground surface.
- R.** “Existing grade” is the grade prior to grading.
- S.** “Rough grade” is the stage at which the grade approximately conforms to the approved plan.
- T.** “Finish grade” is the final grade of the site which conforms to the approved plan.
- U.** “Grading” is any excavating or filling or combination thereof.
- V.** “Key” is a designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.
- W.** “Retaining Wall” is a structure that provides lateral support for a mass of soil or fluid and other imposed loads.

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- X.** “Site” is any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.
- Y.** “Slope” is an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.
- Z.** “Soil” is naturally occurring surficial deposits overlying bedrock.
- AA.** “Soil (Geotechnical) engineer” shall mean a civil engineer competent by education, training, and experience in the practice of soil engineering.
- BB.** “Soil (Geotechnical) engineering” shall mean the application of the principles of soil mechanics in the investigation, evaluation, and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.
- CC.** “Terrace” is a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

**24.70.050 Information on Plans and in Specifications.**

(Amended by Ordinance Nos. 173532, 184522, 185448, 186053 and 188884, effective April 4, 2018.) Plans and specifications shall be submitted in accordance with Section 24.10.070 and in addition shall comply with the following:

- A.** Plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this Title and all relevant laws, ordinances, rules, and regulations. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared.

The plans shall include the following information.

- 1.** General vicinity of the proposed site.
- 2.** Property limits and accurate contours of existing ground and details of terrain and area drainage for the site and surrounding area.
- 3.** Limiting dimensions, elevations, or finish contours to be achieved by the grading and the proposed drainage channels and related construction.
- 4.** Detailed schedule of when each portion of the site is to be graded; how long the soil is to be exposed; and when the area is to be covered with buildings, paving, new vegetation or temporary erosion control measures.
- 5.** Detailed plans of all surface and subsurface drainage devices, walls, retaining walls, cribbing, dams, and other protective devices to be

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constructed with, or as a part of, the proposed work together with a map showing the drainage area and the estimated runoff of the area served by any drains.

6. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners or trees in the adjacent rights-of-way that are within 15 feet of the property or which may be affected by the proposed grading operations.
7. Specifications shall contain information covering construction and material requirements.
8. Civil engineering report. The civil engineering report, when required by the Director, shall include hydrological calculations of runoff and the existing or required safe storm drainage capacity outlet of channels both on site and off site, and 1 in 100 year flood elevations for any adjacent watercourse. The report shall include recommendations for stormwater control and disposal.
9. Soil (Geotechnical) engineering report. The soil engineering report, when required by the Director, shall include data regarding the nature, distribution, and strength of existing soils, design criteria, and conclusions and recommendations applicable to the proposed development. The report shall include recommendation for subdrainage, and for groundwater control and disposal. Recommendations included in the report and approved by the Director shall be incorporated in the plans and specifications. For single family residences, a surface reconnaissance and stability questionnaire may be substituted for a formal soils report at the discretion of the Director.
10. Engineering geology report. The engineering geology report, when required by the Director, shall include an adequate description of the geology of the site, and conclusions and recommendations regarding the effect of geologic conditions on the proposed development and site(s) to be developed.

Recommendations included in the report and approved by the Director shall be incorporated in the grading plans and specifications.

- B.** Issuance. Section 24.10.070 is applicable to grading permits. The Director may require that:
1. The amount of the site exposed during any one period of time be limited; and

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2. Grading work be scheduled to avoid weather periods or avoid critical habitat use periods for areas existing on, or adjacent to, the development site.

Subsequent to the issuance of the grading permit, the Director may require that grading operations and project designs be modified if delays occur which can result in weather generated problems not considered at the time the permit was issued.

**24.70.060 Bonds.**

The Director may require bonds in such form and amounts as may be deemed necessary to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.

In lieu of a surety bond the applicant may file a cash bond or instrument of credit with the Director in an amount equal to that which would be required in the surety bond.

**24.70.070 Cuts.**

- A. General. Unless otherwise recommended in the approved soil engineering and/or engineering geology reports, cuts shall conform to the provisions of this Section.
- B. Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use. Cut slopes shall be no steeper than 2 horizontal to 1 vertical.
- C. Drainage and terracing. Drainage and terracing shall be provided as required by Section 24.70.100.

**24.70.080 Fills.**

- A. General. Unless otherwise recommended in the approved soil engineering report fills shall conform to the provisions of this Section.

In the absence of an approved soil engineering report these provisions may be waived for minor fills not intended to support structures. Such fills shall be subject to review at the discretion of the Director.

- B. Ground preparation. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, top-soil, and other unsuitable materials scarifying to provide a bond with the new fill, and where slopes are steeper than 5 to 1, and the height greater than 5 feet, by benching into competent material or sound bedrock as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than 5 to 1 shall be at least 10 feet wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. Where fill is to be placed over a cut the bench under the toe of a fill shall be at least 10 feet wide but the cut must be made before placing fill and approved by the soils engineer and engineering geologist as a suitable foundation for fill. Unsuitable soil is soil which in the opinion of the Director or the civil engineer or the soils engineer

or the engineering geologist, is not competent to support either soil or fill, to support structures or to satisfactorily perform the other functions for which the soil is intended.

- C.** Fill material. Only permitted material free from tree stumps, detrimental amounts of organic matter, trash, garbage, sod, peat, and similar materials shall be used. Rocks larger than 6 inches in greatest dimension shall not be used unless the method of placement is properly devised, continuously inspected, and approved by the Director.

The following shall also apply:

- 1.** Rock sizes greater than 6 inches in maximum dimension shall be 10 feet or more below grade, measured vertically.
  - 2.** Rocks shall be placed so as to assure filling all voids with fines. Topsoil may be used in the top 12-inch surface layer to aid in planting and landscaping.
- D.** Compaction of fill. All fills shall be compacted to a minimum relative dry density of 90 percent as determined in accordance with ASTM Standard D-1557-78. Field density verification shall be determined in accordance with ASTM Standard D-1556-82 or equivalent and must be submitted for any fill 12 inches or more in depth where such fill may support the foundation for a structure. A higher relative dry density, or additional compaction tests, or both, may be required at any time by the Director.
- E.** Fill slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than 2 horizontal to 1 vertical.
- F.** Drainage and terracing. Drainage and terracing shall be provided and the area above fill slopes and the surfaces of terraces shall be graded and paved as required by Section 24.70.100.

**24.70.085 Retaining Walls.**

(Added by Ordinance No. 188884, effective April 4, 2018.)

- A.** Retaining walls not regulated by the Oregon Residential Specialty Code or the Oregon Structural Specialty Code shall be designed in accordance with ASCE 7-16 and this section.
- B.** Soil loads shall be determined in accordance with ASCE 7-16. Retaining walls in which horizontal movement is restricted at the top shall be designed for at-rest pressure. Retaining walls free to move and rotate at the top shall be permitted to be designed for active pressure. Lateral pressure from surcharge loads shall be

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added to the lateral earth pressure load. Lateral pressure shall be increased if soils at the site are expansive or the retaining wall will support an ascending slope. Retaining walls shall be designed to support the weight of the full hydrostatic pressure of undrained backfill unless a drainage system is installed.

- C. Retaining walls supporting more than 6 feet of backfill height, measured from the base of the footing to the top of the wall, shall incorporate an additional dynamic seismic lateral earth pressure. When the Monobe-okabe method is used to calculate the active dynamic seismic lateral earth pressure, a horizontal acceleration coefficient equal to or greater than one-half (0.5) the design peak horizontal ground acceleration shall be used.
- D. Retaining walls shall be designed to ensure stability against overturning, sliding, excessive foundation pressure and water uplift. Retaining walls shall be designed to resist the lateral action of soil to produce sliding and overturning with a minimum safety factor of 1.5 in each case. The load combinations of ASCE 7-16 shall not apply to this requirement. Instead, the design shall be based on 0.7 times nominal earth-quake loads, 1.0 times other nominal loads, and investigation with one or more of the variable loads set to zero. The safety factor against lateral sliding shall be taken as the available soil resistance at the base of the retaining wall foundation divided by the net lateral force applied to the retaining wall.

**Exception:** Where earthquake loads are included, the minimum safety factor for retaining wall sliding and overturning shall be 1.1.

**24.70.090 Setbacks.**

- A. General. The setbacks and other restrictions specified by this Section are minimal and may be increased by the Director, or by the recommendation of the civil engineer, soils engineer, or engineering geologist, if necessary for safety and stability or to prevent damage of adjacent properties from deposition or erosion or to provide access for slope maintenance and drainage. Retaining walls may be used to reduce the required setbacks when approved by the Director.
- B. Setbacks from property lines. The tops of cuts and toes of fill slopes shall be set back from the outer boundaries of the permit area, including slope right areas and easements, in accordance with Figure No. 2 and Table No. 24.70-C at the end of this Chapter.
- C. Design standards for setbacks. Setbacks between graded slopes (cut or fill) and structures shall be provided in accordance with Figure No. 3 and Table No. 24.70-C at the end of this Chapter.

**24.70.100 Drainage and Terracing.**

(Amended by Ordinance No. 173270, effective May 21, 1999.)



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- A.** General. Unless otherwise indicated on the approved grading plan, drainage facilities and terracing shall conform to the provisions of this Section.
- B.** Terrace. Terraces at least 6 feet in width shall be established at not more than 30-foot vertical intervals on all cut or fill slopes to control surface drainage and debris except that where only one terrace is required, it shall be at mid-height. For cut or fill slopes greater than 60 feet and up to 120 feet in vertical height one terrace at approximately mid-height shall be 12 feet in width. Terrace widths and spacing for cut and fill slopes greater than 120 feet in height shall be designed by the civil engineer and approved by the Director. Suitable access shall be provided to permit proper cleaning and maintenance.

A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (projected) without discharging into a downdrain.

- C.** Subsurface drainage. Cut and fill slopes shall be provided with subdrainage as necessary for stability. Adequate culverts shall be laid under all fills placed in natural watercourses and along the flow line of any tributary branches in such a manner that the hydraulic characteristics of the stream are not adversely altered. In addition, subdrainage shall be installed if active or potential springs or seeps are covered by the fill. All culverts/subdrainage shall be installed after the suitable subgrade preparation. Design details of culverts/subdrainage shall be shown on each plan and be subject to the approval of the Director and of other government/private agencies as may be required.

A subdrain system shall be provided for embedded foundation/ retaining walls and floor slabs where ground water or seepage has a potential to affect the performance of the structure. The plans shall indicate

1. subdrainage details with appropriate specifications,
2. location of footing subdrain/discharge lines and,
3. method of disposal.

In lieu of above, walls/floors may be waterproofed and designed to resist hydrostatic pressure.

- D.** Disposal. All drainage facilities shall be designed to carry waters to the nearest practicable drainageway or approved stormwater management facility, as approved by the Director and/or other appropriate jurisdiction as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive downdrains or other devices.

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Building pads shall have a drainage gradient of 2 percent toward approved drainage facilities, unless waived by the Director.

Exception: The gradient from the building pad may be 1 percent if all of the following conditions exist throughout the permit area:

1. No proposed fills are greater than 10 feet in maximum depth.
  2. No proposed finish cut or fill slope faces have a vertical line in excess of 10 feet.
  3. No existing slope faces, which have a slope face steeper than 10 horizontal to 1 vertical, have a vertical height in excess of 10 feet.
- E.** Interceptor drains. Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes towards the cut and has a drainage path greater than 40 feet measured horizontally. Interceptor drains shall be paved with a minimum of 3 inches of concrete or gunitite and reinforced. They shall have a minimum depth of 12 inches and a minimum paved width of 30 inches measured horizontally across the drain. The slope of the drain shall be approved by the Director.

**24.70.110 Erosion Control.**

(Repealed by Ordinance No. 173979, effective March 1, 2000.)

**24.70.120 Grading Inspection.**

(Amended by Ordinance No. 188647, effective November 17, 2017.)

- A.** General. All grading operations for which a permit is required shall be subject to inspection by the Director. When required by the Director, special inspection of grading operations and special testing shall be performed in accordance with the provisions of Section 24.70.120 C.
- B.** Grading designation. All grading in excess of 5,000 cubic yards shall be performed in accordance with the approved grading plan prepared by a civil engineer and shall be designated as “engineered grading.” Grading involving less than 5,000 cubic yards may also be designated as “engineered grading” by the Director if the grading will
1. support a building or structure of a permanent nature;
  2. support other engineering works such as, but not limited to, tanks, towers, machinery, retaining wall, and paving;
  3. be deemed a potential hazard under Section 24.70.030. The permittee with the approval of the Director may also choose to have the grading performed

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as “engineered grading.” Otherwise, the grading shall be designated as “regular grading.”

- C. Engineered grading requirements. For engineered grading, it shall be the responsibility of the civil engineer who prepares the approved grading plan to incorporate all recommendations from the soil engineering and engineering geology reports into the grading plan. The civil engineer shall also be responsible for the professional inspection and approval of the grading within the civil engineer’s area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as to the establishment of line, grade, and drainage of the development area. The civil engineer shall act as the coordinating agent in the event that need arises for liaison between the other professionals, the contractor, and the Director. The civil engineer shall also be responsible for the preparation of revised plans and the submission of as-graded grading plans upon completion of the work. The grading contractor shall submit in a form prescribed by the Director a statement of compliance to said as-graded plan.

Soil engineering and engineering geology reports shall be required as specified in Section 24.70.050. During grading all necessary reports, compaction data, and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the Director by the soil engineer and the engineering geologist. The soil engineer’s area of responsibility shall include, but need not be limited to, the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes, and the design of buttress fills, where required, incorporating data supplied by the engineering geologist.

The engineering geologist’s area of responsibility shall include, but need not be limited to, professional inspection and approval of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters, and the need for subdrains or other ground water drainage devices. The engineering geologist shall report the findings to the soil engineer and the civil engineer for engineering analysis.

The Director shall inspect the project at the various stages of work requiring approval and at more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.

- D. Regular grading requirements. The Director may require inspection and testing by an approved testing agency. The testing agency’s responsibility shall include, but need not be limited to, approval concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills. When the Director has cause to believe that geological factors may be involved the grading operation will be required to conform to “engineered grading” requirements.

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- E.** Notification of noncompliance. If, in the course of fulfilling their responsibility under this Chapter, the civil engineer, the soil engineer, the engineering geologist, or the testing agency finds that the work is not being done in conformity with this Chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the Director. Recommendations for corrective measures, if necessary, shall be submitted.
- F.** Transfer of responsibility for approval. If the civil engineer, the soil engineer, the engineering geologist, or the testing agency of record are changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of their technical competence for approval upon completion of the work.

**24.70.130 Completion of Work.**

(Amended by Ordinance No. 188647, effective November 17, 2017.)

- A.** Final reports. Upon completion of the rough grading work and that final completion of the work the Director may require the following reports and drawings and supplements thereto:

  - 1.** An as-graded grading plan prepared by the civil engineer including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns, and locations and elevations of all surface and sub-surface drainage facilities. The civil engineer shall provide approval that the work was done in accordance with the final approved grading plan.
  - 2.** A Soil Grading Report prepared by the soil engineer including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading and their effect on the recommendations made in the soil engineering investigation report. The soil engineer shall provide approval as to the adequacy of the site for the intended use.
  - 3.** A Geological Grading Report prepared by the engineering geologist including a final description of the geology of the site including any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. The engineering geologist shall provide approval as to the adequacy of the site for the intended use as affected by geological factors.
- B.** Notification of completion. The permittee or his agent shall notify the Director when the grading operation is ready for final inspection. Final approval shall not be given until all work including installation of all drainage facilities and their protective devices and all erosion control measures have been completed in

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accordance with the final approved grading plan and the required reports have been submitted.

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**CHAPTER 24.75 - UNIFORM BUILDING  
ADDRESS SYSTEM**

(Chapter added by Ordinance No. 161984, effective  
July 1, 1989.)

**Sections:**

- 24.75.010 Uniform System.
- 24.75.020 Size and Location of Building Numbers.
- 24.75.030 Administration.
- 24.75.040 Owner Responsibility.
- 24.75.050 Alteration of Building Number - Improper Number.
- 24.75.060 Building Defined.
- 24.75.070 Enforcement.

**24.75.010 Uniform System.**

(Amended by Ordinance No. 188995, effective July 6, 2018.)

- A.** There is established a uniform system of numbering all buildings in separate ownership or occupancy in the City dividing the City into six addressing districts. In establishing the system Williams Avenue, Naito Parkway, View Point Terrace and Tryon Creek State Natural Area and the centerline of the Willamette River southerly from Oregon Street and northerly from Clay Street, shall constitute the north and south base line from which the numbers on all buildings running easterly and westerly from said streets shall be extended each way, upon the basis of one number for each ten feet of property frontage, wherever possible, starting at the base line with the number 1 continuing with consecutive hundreds at each intersection, wherever possible.
  
- B.** All even numbers shall be placed upon buildings on the southerly side of streets, avenues, alleys and highways, and all odd numbers shall be placed upon buildings on the northerly side of streets, avenues, alleys and highways. Burnside Street shall constitute the east and west base line from which the numbers on all streets running north and south from said streets shall be extended each way, upon the basis of one number for each 10 feet of property frontage, wherever possible, starting at the base line with number 1 and continuing with consecutive hundreds at each intersection, wherever possible. All even numbers shall be placed upon buildings on the easterly side of streets, avenues, alleys, and highways, and all odd numbers upon buildings on the westerly side of said streets, avenues, alleys, and highways. Freestanding buildings on private streets which are separately owned or occupied shall be separately numbered so as to most closely conform to this system. Each portion of a building which is separately owned or occupied and has a separate entrance from the outside shall have a separate number assigned to it.

- C. Suffixes to Building Numbers. Where building address requirements exceed numbers available within the numbering system, the Director may use the suffix “A”, “B”, “C”, etc. as may be required to provide the numbering required by this Chapter.

**24.75.020 Size and Location of Building Numbers.**

All numbers placed in accordance with this Chapter shall be permanently affixed to a permanent structure and of sufficient size and so placed as to be distinctly legible from the public way providing primary access to the building. All numbers shall be posted as nearly as possible in a uniform place and positioned on the front of each building near the front entrance. Where outside illumination is provided, the numbers shall be placed so as to be illuminated by the outside light. In instances where building mounted numbers are not distinctly visible from a public way, a duplicate set of numbers shall be permanently affixed to a permanent structure at the primary entranceway to such property. If, in the judgment of the Director, the numbering, sequence, legibility, size or location does not meet the requirements as set forth above, the property owner or agent therefor shall be notified and within 30 days shall make such changes as required in the notification.

**24.75.030 Administration.**

The Director shall assign address numbers, keep records of address assignments, and exercise such other powers as are necessary to carry out the provisions of this Chapter.

**24.75.040 Owner Responsibility.**

Whenever any new building is erected, modified, or occupied in a manner requiring an address assignment, the owner or owner’s agent shall procure the correct address number or numbers designated by the Director and pay required fees.

The owner or agent shall prior to occupancy or within 30 days of assignment, whichever occurs later, place the assigned address number(s) upon the building or in a manner and location as provided in this Chapter.

**24.75.050 Alteration of Building Number - Improper Number.**

It is unlawful for any person to cause or knowingly permit a building number to be displayed which is different than that assigned pursuant to this Chapter. It is unlawful for any person to own or have possession of a building which does not display the number assigned pursuant to this Chapter in the manner provided by this Chapter.

**24.75.060 Building Defined.**

As used in this Chapter, “building” is any structure used or intended for supporting or sheltering any use or occupancy.

**24.75.070 Enforcement.**

The Director shall provide written notices to the owner of any building in violation of the provisions of this Title. The notice shall state the violations existing and specify the owner has 30 days to obtain compliance.

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In the event the owner fails or neglects to comply with the violation notice in the prescribed time the Director may gain compliance by:

- A. Instituting an action before the Code Enforcement Hearings Officer as provided 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 Director deems appropriate.



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**CHAPTER 24.80 - DERELICT COMMERCIAL  
BUILDINGS**

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

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**CHAPTER 24.85 - SEISMIC DESIGN  
REQUIREMENTS FOR EXISTING  
BUILDINGS**

(Chapter added by Ordinance No. 168627, effective  
March 22, 1995.)

**Sections:**

- 24.85.010 Scope.
- 24.85.015 Structural Design Meeting.
- 24.85.020 Seismic Related Definitions.
- 24.85.030 Seismic Improvement Standards.
- 24.85.040 Change of Occupancy or Use.
- 24.85.050 Building Additions or Structural Alterations.
- 24.85.051 Mezzanine Additions.
- 24.85.055 Structural Systems Damaged by Catastrophic Events.
- 24.85.056 Structural Systems Damaged by an Earthquake.
- 24.85.060 Required Seismic Evaluation
- 24.85.065 Seismic Strengthening of Unreinforced Masonry Bearing Wall Buildings.
- 24.85.067 Voluntary Seismic Strengthening.
- 24.85.070 Phasing of Improvements.
- 24.85.075 Egress Through Existing Buildings.
- 24.85.080 Application of Other Requirements.
- 24.85.090 Fee Reductions.
- 24.85.095 Appeals.

**24.85.010 Scope.**

(Amended by Ordinance Nos. 178831, 189201, 189309 and 189747, effective October 23, 2019.)

- A.** The provisions of this chapter prescribe the seismic design requirements for existing buildings undergoing changes of occupancy, additions, alterations, catastrophic damage, fire, or earthquake repair, or mandatory or voluntary seismic strengthening. The requirements of this chapter only apply to buildings for which a building permit has been applied for to change the occupancy classification, add square footage to the building, alter or repair the building.
- B.** Under the authority provided by State law, the provisions of this chapter prescribing seismic rehabilitation standards for existing buildings can be used in lieu of meeting the requirements of the current edition of the State of Oregon Structural Specialty Code.

**24.85.015 Structural Design Meeting.**

(Added by Ordinance No. 178831, effective November 20, 2004.) Upon request, BDS engineering staff is available to meet with an owners design engineer to review proposed

seismic strengthening plans in a pre-design meeting. A written record of the meeting discussion and determinations will be placed in the permit record.

**24.85.020 Seismic Related Definitions.**

(Amended by Ordinance Nos. 169427, 170997, 178831, 180917, 187192, 189201, 189747 and 190134, effective October 16, 2020.) The definitions contained in this Section relate to seismic design requirements for existing buildings outlined in this Chapter.

- A.** ASCE 41 means the Seismic Evaluation and Retrofit of Existing Buildings ASCE/SEI 41-17 published by the American Society of Civil Engineers and the Structural Engineering Institute.
- B.** ASCE 41 Evaluation means the process of evaluating an existing building for the potential earthquake-related risk to human life posed by that building, or building component, and the documentation of that evaluation, performed and written according to the provisions of ASCE 41. Tier 1 and Tier 2 deficiency based evaluation for both structural and non-structural components using the Basic Performance Objective for Existing Buildings (BPOE) as defined in ASCE 41 shall be the performance objective for the evaluation, unless a Tier 3 evaluation is required by ASCE 41.
- C.** ASCE 41-BPOE Improvement Standard means the Tier 1 and Tier 2 Deficiency based retrofit for both structural and non-structural components using the Basic Performance Objective for Existing Buildings (BPOE) as defined in ASCE 41, unless a Tier 3 evaluation is required by ASCE 41.
- D.** ASCE 41-BPON Improvement Standard means Tier 3 Retrofit for both structural and non-structural components using the Basic Performance Objective Equivalent to New Buildings (BPON) as defined in ASCE 41.
- E.** ATC 20 means the latest Edition of the manual on “Procedures for Post Earthquake Safety Evaluation of Buildings” published by Applied Technology Council.
- F.** BDS means the City of Portland’s Bureau of Development Services.
- G.** BPOE- Basic Performance Objective for Existing Buildings: A series of defined Performance Objectives based on a building’s Risk Category meant for evaluation and retrofit of existing buildings; See Table 2-1 and Table 2-2 of ASCE 41.
- H.** BPON- Basic Performance Objective Equivalent to New Building Standards: A series of defined Performance Objectives based on a building’s Risk Category meant for evaluation and retrofit of existing buildings to achieve a level of performance commensurate with the intended performance of buildings designed to a standard for new construction; See Table 2-3 of ASCE 41.

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- I.** BSE-1E: Basic Safety Earthquake-1 for use with the Basic Performance Objective for Existing Buildings, taken as a seismic hazard with a 20 percent probability of exceedance in 50 years, except that the design spectral response acceleration parameters  $S_x$ s and  $S_x$ 1 for BSE-1E seismic hazard level shall not be taken as less than 75 percent of the respective design spectra response acceleration parameters obtained from BSE-1N seismic hazard level and need not be greater than BSE-2N at a site.
- J.** BSE-1N: Basic Safety Earthquake-1 for use with the Basic Performance Objective Equivalent to New Buildings Standards, taken as two-thirds of the BSE- 2N.
- K.** BSE-2E: Basic Safety Earthquake-2 for use with the Basic Performance Objective for Existing Buildings, taken as a seismic hazard with a 5 percent probability of exceedance in 50 years, except that the design spectral response acceleration parameters of  $S_x$ s and  $S_x$ 1 for BSE-2E seismic hazard level shall not be taken as less than 75 percent of the respective design spectra response acceleration parameters obtained from BSE- 2N Seismic hazard level and may not be greater than BSE-2N at a site.
- L.** BSE-2N: Basic Safety Earthquake-2 for use with the Basic Performance Objective Equivalent to New Buildings Standards, taken as the ground shaking based on Risk-Targeted Maximum Considered Earthquake (MCER) per ASCE 7 at a site.
- M.** Building Addition means an extension or increase in floor area or height of a building or structure.
- N.** Building Alteration means any change, addition or modification in construction.
- O.** Catastrophic Damage means damage to a building that causes an unsafe structural condition from fire, vehicle collision, explosion, or other events of similar nature.
- P.** Essential Facility has the same meaning as defined in the OSSC.
- Q.** Fire and Life safety for Existing Buildings (FLEx) Guide means a code guide published by the Bureau of Development Services, outlining alternative materials and methods of construction that are allowed for existing buildings in Portland.
- R.** FM 41 Agreement means a joint agreement between Portland Fire & Rescue, the Bureau of Development Services and a building owner to schedule improvements to the building following a determination of the fire and life safety hazards posed by the existing condition of the building as provided under Oregon law.
- S.** Live/Work Space means a combination working space and dwelling unit. A live/work space includes a room or suite of rooms on one or more floors designed for and occupied by not more than one family and including adequate working

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space reserved for the resident's occupancy. A live/work space is individually equipped with an enclosed bathroom containing a lavatory, water closet, shower/and or bathtub and appropriate venting.

- T.** Net Floor Area means the entire area of a structurally independent building, including an occupied basement, measured from the inside of the permanent outer building walls, excluding any major vertical penetrations of the floor, such as elevator and mechanical shafts.
- U.** Occupant Load means the number of persons for which the means of egress of a building or portion thereof is designed. The occupant load shall be calculated based on occupant load factors in the table assigned to each space in the Oregon Structural Specialty Code (OSSC).
- V.** Oregon Structural Specialty Code (OSSC) means the provisions of the State of Oregon Structural Specialty Code as adopted by Section 24.10.040 A.
- W.** Reinforced Masonry means masonry having both vertical and horizontal reinforcement as follows:
- 1.** Vertical reinforcement of at least 0.20 in<sup>2</sup> in cross-section at each corner or end, at each side of each opening, and at a maximum spacing of 4 feet throughout. One or two story buildings may have vertical reinforcing spaced at greater than 4 feet throughout provided that a rational engineering analysis is submitted which shows that existing reinforcing and spacing provides adequate resistance to all required design forces without net tension occurring in the wall.
  - 2.** Horizontal reinforcement of at least 0.20 in<sup>2</sup> in cross-section at the top of the wall, at the top and bottom of wall openings, at structurally connected roof and floor openings, and at a maximum spacing of 10 feet throughout.
  - 3.** The sum of the areas of horizontal and vertical reinforcement shall be at least 0.0005 times the gross cross-sectional area of the element.
  - 4.** The minimum area of reinforcement in either direction shall not be less than 0.000175 times the gross cross-sectional area of the element.
- X.** Risk Category: A categorization of a building for determination of earthquake performance based on Oregon Structural Specialty Code (OSSC).
- Y.** Roof Covering Repair or Replacement means the installation of a new roof covering following the removal of an area of the building's roof covering exceeding 50 percent or more of the total roof area within the previous 5 year period.

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BUILDING REGULATIONS**

- Z.** Unreinforced Masonry (URM) means adobe, burned clay, concrete or sand-lime brick, hollow clay or concrete block, hollow clay tile, rubble and cut stone and unburned clay masonry that does not satisfy the definition of reinforced masonry as defined herein. Plain unreinforced concrete shall not be considered unreinforced masonry for the purpose of this Chapter.
- AA.** Unreinforced Masonry Bearing Wall means a URM wall that provides vertical support for a floor or roof for which the total superimposed vertical load exceeds 100 pounds per lineal foot of wall.
- BB.** Unreinforced Masonry Bearing Wall Building means a building that contains at least one URM bearing wall.

**24.85.030 Seismic Improvement Standards.**

(Amended by Ordinance Nos. 170997 and 178831, effective November 20, 2004.) For changes of occupancy structural additions, building alterations and catastrophic or earthquake damage repair, the design standard shall be the current edition of the OSSC unless otherwise noted by this Chapter.

**24.85.040 Change of Occupancy or Use.**

(Amended by Ordinance Nos. 169905, 170997, 178831, 187192, 189201 and 189747, effective October 23, 2019.) The following table shall be used to classify the relative hazard of all building occupancies:

<b>TABLE 24.85-A</b>		
<b>Relative Hazard Classification</b>	<b>OSSC Occupancy Classification</b>	<b>Seismic Improvement Standard</b>
5 (Highest)	A, E, I-2, I-3, H-1, H-2, H-3, H-4, H-5	OSSC or ASCE 41-BPON
4	R-1,R-2, SR, I-1, I-4	
3	B, M	41-BPOE
2	F-1, F-2, S-1, S-2	
1 (Lowest)	R-3, U	

- A.** Occupancy Change to a Higher Relative Hazard Classification. An occupancy change to a higher relative hazard classification will require seismic improvements based upon the factors of changes in the net floor area and the occupant load increases as indicated in Table 24.85-B below. All improvements to either the OSSC or ASCE 41 improvement standard shall be made such that the entire building conforms to the appropriate standard indicated in Table 24.85-B.

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<b>TABLE 24.85-B</b>				
<b>Percentage of Building Net Floor Area Changed</b>		<b>Occupant Load Increase</b>	<b>Required Improvement Standard</b>	<b>Relative Hazard Classification</b>
1/3 of area or less	and	Less than 150	None	1 through 5
More than 1/3 of area	or	150 and above	ASCE 41-BPOE	1, 2, and 3
More than 1/3 of area	or	150 and above	OSSC or ASCE 41-BPON	4 and 5

Multiple occupancy changes to a single building may be made under this section without triggering a seismic upgrade provided the cumulative changes do not exceed 1/3 of the building net floor area or add more than 149 occupants with respect to the legal building occupancy as of October 1, 2004.

- B.** Occupancy Change to Same or Lower Relative Hazard Classification. An occupancy change to the same or a lower relative hazard classification or a change in use within any occupancy classification will require seismic improvements using either the OSSC or ASCE 41 improvement standard, as identified in Table 24.85-A above, where the change results in an increase in occupant load of more than 149 people as defined by the OSSC. Where seismic improvement is required, the entire building shall be improved to conform to the appropriate improvement standard identified in Table 24.85-A.

Multiple occupancy changes to a single building may be made under this section without triggering a seismic upgrade provided the cumulative changes do not result in the addition of more than 149 occupants with respect to the legal building occupancy as of October 1, 2004.

- C.** Occupancy Change to Live Work Space. Any building occupancy classified as relative hazard category 1, 2, or 3 may undergo a change of occupancy to live/work space provided that:
1. The building shall be improved such that the entire building conforms to the ASCE 41-BPOE improvement standard; and
  2. The building meets the fire and life safety standards of either the FLEEx Guide or the current OSSC.
  3. Any Unreinforced Masonry bearing wall building converted to live/work space, regardless of construction costs, shall be improved such that the entire building conforms to the ASCE 41-BPOE improvement standard.

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- D.** Occupancy Change to Essential Facilities. All structures which are being converted to essential facilities, as defined in the OSSC, shall comply with current state code seismic requirements or ASCE 41-BPON improvement standard, regardless of other requirements in this section.

**24.85.050 Building Additions or Structural Alterations.**

(Amended by Ordinance Nos. 178831 and 187192, effective July 17, 2015.) An addition that is not structurally independent from an existing building shall be designed and constructed such that the entire building conforms to the seismic force resistance requirements for new buildings unless the following two conditions listed below are met. Furthermore, structural alterations to an existing building or its structural elements shall also meet the following two conditions:

- A.** The addition or structural alteration shall comply with the requirements for new buildings; and
- B.** Any existing lateral load-carrying structural element whose demand-capacity ratio with the addition(s) or structural alteration(s) considered is no more than 10 percent greater than its demand-capacity ratio with the addition(s) or structural alteration(s) ignored shall be permitted to remain unaltered. For purposes of this paragraph, comparisons of demand-capacity ratios and calculation of design lateral loads, forces, and capacities shall account for the cumulative effects of additions and structural alterations since original construction.

**24.85.051 Mezzanine Additions.**

(Added by Ordinance No. 178831, effective November 20, 2004.) A mezzanine addition shall not require seismic strengthening of the entire building when all of the following conditions are met:

- A.** Entire building strengthening is not required by any other provision contained in this Title;
- B.** The net floor area of the of the proposed mezzanine addition is less than 1/3 of the net floor area of the building;
- C.** The mezzanine addition does not result in an occupant load increase, as defined by the OSSC, of more than 149 people; and
- D.** Subsections 24.85.050 A. - C. shall also apply to mezzanine additions.

**24.85.055 Structural Systems Damaged by Catastrophic Events.**

(Added by Ordinance No. 170997; amended by Ordinance Nos. 178831 and 187192, effective July 17, 2015.)



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- A.** Building Lateral Load Resisting systems along any principal axis damaged less than or equal to 50 percent.
- 1.** If a building is damaged by a catastrophic event such that less than or equal to 50 percent of the capacity of the existing lateral load resisting system along any principal axis of the building are damaged, only the damaged lateral load resisting components of the building's structural system must be designed and constructed to current provisions of the OSSC. These components must also be connected to the balance of the undamaged lateral load resisting system in conformance with current code provisions. Undamaged components need not be upgraded to current lateral load provisions of the current code, unless required by other provisions of this title.
  - 2.** New lateral system vertical elements must be compatible with any existing lateral system elements, including foundations. In multistory buildings, the engineer shall confirm that the new lateral system vertical elements do not introduce soft or weak story seismic deficiencies, as defined by ASCE 41, where they did not previously exist, or make existing conditions more hazardous.
- B.** Building Lateral Load Resisting systems along any principal axis damaged more than 50 percent. Where a building is damaged by a catastrophic event such that more than 50 percent of the capacity of the existing lateral load resisting system along any principal axis of the building is damaged, all lateral load resisting components of the entire building's structural system along that principal axis must be designed and constructed to the current provisions of the OSSC or ASCE 41-BPON improvement standard.

**24.85.056 Structural Systems Damaged by an Earthquake.**

(Added by Ordinance No. 178831; amended by Ordinance No. 187192, effective July 17, 2015.) As a result of an earthquake, the Director may determine through either an ATC 20 procedure or through subsequent discovery any structure or portion thereof to be in an unsafe condition as defined by State law. As a result of making this determination, the Director may declare the structure or portion thereof to be a public nuisance and to be repaired or rehabilitation as provided in Subsections 24.85.056 A.-C., or abated by demolition or removal in accordance with Title 29. For the purposes of this Section, an "unsafe condition" includes, but is not limited to any portion, member or appurtenance of a building that has become detached or dislodged or appears likely to fail or collapse and thereby injure persons or damage property; or any portion of a building or structure that has been damaged to the extent that the structural strength or stability of the building is substantially less than it was prior to the damaging event.

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- A.** Buildings built prior to January 1, 1974 with lateral support systems that have unsafe conditions shall be repaired or improved to resist seismic forces such that the repaired lateral system conforms to the ASCE 41-BPOE improvement standard.

  - 1.** Where less than 50 percent of the lateral support system has been damaged, only the damaged elements must be repaired.
  - 2.** Where 50 percent or more of the lateral support system has been damaged, then the entire lateral support system must be repaired to resist seismic forces such that the repaired system conforms to the ASCE 41-BPOE improvement standard.
  
- B.** Buildings built on or after January 1, 1974 with lateral support systems that have unsafe conditions shall be repaired or improved to resist seismic forces such that the repaired lateral system conforms to the code to which the building was originally designed, but not less than that required to conform to the ASCE 41-BPOE improvement standard.

  - 1.** Where less than 50 percent of the lateral support system has been damaged, only the damaged elements must be repaired.
  - 2.** Where 50 percent or more of the lateral support system has been damaged, then the entire lateral support system must be repaired to resist seismic forces such that the repaired system conforms to the code to which the building was originally designed, but not less than that required to conform to the ASCE 41-BPOE improvement standard.
  
- C.** New lateral system vertical elements must be compatible with any existing lateral system elements, including foundations. In multistory buildings, the engineer shall confirm that the new lateral system vertical elements do not introduce soft or weak story seismic deficiencies, as defined by ASCE 41, where they did not previously exist, or make existing conditions more hazardous.

**24.85.060 Required Seismic Evaluation.**

(Added by Ordinance No. 169427; amended by Ordinance Nos. 178831 and 187192, effective July 17, 2015). When an alteration for which a building permit is required has a value (not including costs of mechanical, electrical, plumbing, permanent equipment, painting, fire extinguishing systems, site improvements, eco-roofs and finish works) of more than \$175,000, an ASCE 41 evaluation is required. This value of \$175,000 shall be modified each year after 2004 by the percent change in the R.S Means Construction Index for Portland on file with the Director. A letter of intent to have an ASCE 41 evaluation performed may be submitted along with the permit application. The evaluation must be completed before any future permits will be issued. The following shall be exempted from this requirement:

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- A. Buildings constructed or renovated to seismic zone 2, 2b or 3 under a permit issued after January 1, 1974.
- B. Detached One- and two-family dwellings, and their accessory structures.
- C. Single story, light frame metal and light wood frame buildings, not more than 20 feet in height from the top surface of the lowest floor to the highest interior overhead finish and ground area of 4,000 square feet or less.

A previously prepared seismic study may be submitted for consideration by the Director as equivalent to an ASCE 41 evaluation.

**24.85.065 Seismic Strengthening of Unreinforced Masonry Bearing Wall Buildings.**

(Added by Ordinance No. 169427; amended by Ordinance Nos. 170997, 178831, 187192, 189201, 189399, 189479 and 189747, effective October 23, 2019.) When any building alterations or repairs occur at an Unreinforced Masonry Bearing Wall Building, all seismic hazards shall be mitigated as set forth in Subsections 24.85.065 A. and B. A previously permitted seismic strengthening scheme designed in accordance with FEMA 178/310/ASCE 31 may be submitted for consideration by the Bureau Director as equivalent to the ASCE 41 improvement standard.

A. Roof Repair or Replacement. When a roof covering is repaired or replaced, as defined in 24.85.020, the building structural roof system, anchorage, and parapets shall be repaired or rehabilitated such that, at a minimum, the wall anchorage for both in-plane and out-of-plane forces at the roof and parapet bracing conform to the ASCE 41-BPOE improvement standard. In-plane brick shear tests are not required as part of the ASCE evaluation under this subsection.

B. Additional Triggers.

- 1. Building alterations or repair. When the cost of alteration or repair work which requires a building permit in a 2-year period exceeds the following criteria, then the building shall be improved to resist seismic forces such that the entire building conforms to the ASCE 41-BPOE improvement standard.

<b>Table 24.85-C</b>	
Building Description	Cost of Alteration or Repair
Single Story Building	\$40 per square foot
Buildings Two Stories or Greater	\$30 per square foot

- 2. Special building hazards. Where an Unreinforced Masonry Building of any size contains any of the following hazards, the building shall be seismically improved if the cost of alteration or repair exceeds \$30 per square foot:

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- a. The Building possesses an Occupancy Classification listed within the Relative Hazard Category 5 as determined in Section 24.85.040 of this Chapter; or
  - b. The building is classified as possessing either vertical or plan irregularities as defined in the OSSC.
3. Exclusions from cost calculations. Costs for site improvements, eco-roofs, mandated FM41 agreements, mandated ADA improvements, mandated non-conforming upgrades under Title 33, mandated elevator improvements and mandated or voluntary seismic improvements or work exempted from permit as described in Chapter 1 of the OSSC will not be included in the dollar amounts listed in Subsections 24.85.065 B.1. and 2.
4. Live/Work spaces in Unreinforced Masonry buildings. See Section 24.85.040 B for requirements when a Unreinforced Masonry building is converted to contain live/work spaces.
5. Automatic cost increase. The dollar amounts listed in Subsections 24.85.065 B.1. and 2. shall be modified each year after 2004 by the percent change in the R.S. Means of Construction Cost Index for Portland, Oregon. The revised dollar amounts will be made available at the Development Services Center.

**24.85.067 Voluntary Seismic Strengthening.**

(Added by Ordinance No. 178831, effective November 20, 2004.) Subject to permit approval, a building may be strengthened to resist seismic forces on a voluntary basis provided all of the following conditions are met:

- A. Mandatory seismic strengthening is not required by other provisions of this Title;
- B. The overall seismic resistance of the building or elements shall not be decreased such that the building is more hazardous;
- C. Testing and special inspection are in accordance with the OSSC and the City of Portland Administrative Rules;
- D. The standard used for the seismic strengthening is clearly noted on the drawings along with the pertinent design parameters; and
- E. A written narrative shall be clearly noted on the drawings summarizing the building lateral system, seismic strengthening and known remaining deficiencies. The summary information shall reflect the level of analysis that was performed on the building.

**24.85.070 Phasing of Improvements.**

(Amended by Ordinance No. 178831, effective November 20, 2004.)

- A. The Director may approve a multi-year phased program of seismic improvements when the improvements are pre-designed and an improvement/implementation plan is approved by the Director. The maximum total time allowed for completion of phased improvements shall be ten years. A legal agreement between the building owner and the City of Portland shall be formulated outlining the phased seismic improvements and shall be recorded with the property deed at the County.
- B. Upon review, the Director may extend the maximum time for the phased improvements. The Director shall adopt rules under Section 3.30.035 describing the process for granting an extension.

**24.85.075 Egress Through Existing Buildings.**

(Added by Ordinance No. 178831, effective November 20, 2004.) The building structure and seismic resistance of an egress path through, under or over an existing building must meet the required seismic improvement standard specified in Section 24.85.040, Table 24.85-A, under any of the following conditions:

- A. The egress path is from an adjacent new building or addition and the new building or addition area equals 1/3 or more of the existing building area; or,
- B. The egress path is from an adjacent existing building that undergoes alterations or a change of occupancy requiring its egress path(s) meet the seismic improvement standards as required by this Chapter; or
- C. The additional occupant load, as determined by the OSSC, using the egress path through the existing building is 150 people or more.

**24.85.080 Application of Other Requirements.**

(Amended by Ordinance No. 178831, effective November 20, 2004.) Building permit applications to improve the seismic capability of a building shall not trigger: accessibility improvements so long as the seismic improvement does not lessen accessibility; fire life safety improvements so long as the seismic improvement does not lessen the buildings fire resistance or exiting capability; landscape improvements required by Chapter 33; street tree improvements required by Section 20.40.070.

Conformance with these regulations may not exempt buildings from future seismic regulations.

**24.85.090 Fee Reductions.**

(Amended by Ordinance No. 178831, effective November 20, 2004.) Building permit, plan review and fire life safety review fees for structural work related to seismic strengthening covered by this Chapter will be waived when such fees total less than \$2,500, and will be and reduced by 50 percent when such fees would total \$2,500 or more.

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**24.85.095 Appeals.**

(Replaced by Ordinance No. 189747, effective October 23, 2019.) Because unanticipated circumstances may arise in the enforcement of these requirements for existing buildings, consideration as to the reasonable application of this Chapter may be addressed through the Board of Appeals as provided in Section 24.10.080.

**CHAPTER 24.90 - MANUFACTURED  
DWELLING INSTALLATION AND  
ACCESSORY STRUCTURES,  
MANUFACTURED DWELLING PARKS,  
RECREATION PARKS, RECREATIONAL  
PARK TRAILER INSTALLATION AND  
ACCESSORY STRUCTURES**

(Chapter added by Ordinance No. 169312;  
Amended by Ordinance No. 185798 effective  
December 12, 2012).

**Sections:**

- 24.90.010 Purpose.
- 24.90.020 Scope.
- 24.90.030 Adoption of Codes and Regulatory Authority.
- 24.90.040 Definitions.
- 24.90.050 Administration and Enforcement.
- 24.90.060 Special Regulation.
- 24.90.070 Permit Application.
- 24.90.080 Violations.
- 24.90.090 Appeals.

**24.90.010 Purpose.**

The purpose of this Chapter is to provide minimum standards for the following:

- A. Installation and maintenance of manufactured dwellings and accessory structures.
- B. Development and maintenance of manufactured dwelling parks.
- C. Installation and maintenance of park trailers and recreational vehicle accessory structures.
- D. Development and maintenance of recreational vehicle parks.

**24.90.020 Scope.**

(Amended by Ordinance No. 185798, effective December 12, 2012.) Regulation under this Chapter covers all installations or alteration of manufactured dwellings, recreational park trailers and other recreational vehicles, and accessory structures. Regulation under this Chapter covers the development and maintenance of manufactured dwelling parks, recreational vehicle parks, recreation parks, picnic parks, and organizational camps.

**24.90.030 Adoption of Codes and Regulatory Authority.**

(Amended by Ordinance Nos. 176955 and 185798, effective December 12, 2012.)

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- A.** Manufactured Dwelling Installation Specialty Code. The provisions of the State of Oregon, Manufactured Dwelling Installation Specialty Code, 2010 Edition, as developed at the direction of the Building Codes Division of the Oregon Department of Consumer and Business Services through the Residential and Manufactured Structures Board, is hereby adopted by reference. The Manufactured Dwelling Installation Specialty Code is on file in the Development Services Center of the City of Portland.
- B.** Manufactured Dwelling and Park Specialty Code. The following provisions of the State of Oregon, Manufactured Dwelling and Park Specialty Code, 2002 Edition, as developed at the direction of the Oregon Building Codes Division Administrator through the Oregon Manufactured Structures and Parks Advisory Board, a copy of which is on file in the Development Services Center of the City of Portland, are hereby adopted by reference:
- 1.** All of Chapter One (Administration), except the following:
    - a.** 1-1.4 (Design Loads)
    - b.** 1-2.4 (Energy Conservation Equivalentents)
    - c.** 1-3 (Manufactured Dwellings Sold “As Is”)
    - d.** 1-6.7 (Plot Plans Required)
    - e.** 1-6.8 (Plot Plans Not Required)
    - f.** 1-6.11 (Multiple-family Housing Plans)
    - g.** 1-7.12 (Manufactured Dwelling Installation Permits)
    - h.** 1-8.6 (Visual Inspections)
    - i.** 1-8.7 (Appliance Inspections)
    - j.** 1-8.9 (Alteration Inspections)
    - k.** 1-8.11 (Quality Assurance Inspections)
    - l.** 1-8.13 (Installation Inspections)
    - m.** 1-9 (Insignias and Labels)
    - n.** 1-10 (Certifications), except section 1-10.2.1 (Certificates of Occupancy Required) is adopted





**TITLE 24**  
**BUILDING REGULATIONS**

constructed under the state building code. Skirting and permanent enclosures shall be required for all park trailer and cabana installations.

**24.90.070 Permit Application.**

(Amended by Ordinance No. 185798, effective December 12, 2012.) Permits are required for the establishment, construction, enlargement, alteration or removal of manufactured dwelling parks, recreation parks, and organizational camps. Permit applications, plans and specifications and permit issuance shall conform to Section 24.10.070, and applicable Oregon Administrative Rules. Permits are required for the installation or alteration of manufactured dwellings, recreational park trailers, recreational vehicles as defined in OAR 918-525-0005, and accessory structures. Plans and specifications are required in conformance with Section 24.10.070 and applicable Oregon Administrative Rules except when:

- A. All installation is within an existing manufactured dwelling park and all the installation is performed in accordance with the manufacturer's approved installation instructions.
- B. All installation is within an existing recreational vehicle or combination park, and all installation is performed under OAR 918-530-0005 through 918-530-0120.

When the Director determines special installation or construction requires design by a registered engineer or architect, such design shall be submitted in triplicate and approved by the Bureau prior to commencement or continuance of installation or construction.

**24.90.080 Violations.**

(Amended by Ordinance No. 185798, effective December 12, 2012.) Any person who violates any provision of this Chapter and/or any codes adopted herein shall be subject to the penalties as prescribed by law.

**24.90.090 Appeals.**

(Amended by Ordinance Nos. 185798 and 187432, effective December 4, 2015.) Any person aggrieved by a decision of the Bureau related to the application and interpretation of the Codes listed in Section 24.90.030 of this Chapter may request an administrative appeal with the Administrative Appeal Board in accordance with Section 24.10.075. Any person aggrieved by a final decision of the Building Official made under Section 24.10.075 may appeal the decision to the appropriate Board of Appeal described in Sections 24.10.080, 25.07, 26.03.070 and 27.02.031. Within 30 days of the final appeal finding by the Board of Appeal, an appellant who continues to be aggrieved may appeal to the appropriate State Specialty Advisory Board pursuant to ORS 455.690.

**CHAPTER 24.95 - SPECIAL DESIGN  
STANDARDS FOR FIVE STORY  
APARTMENT BUILDINGS**

(Chapter repealed by Ordinance No. 185798,  
effective December 12, 2012.)

FIGURES & TABLES

BASIC FLOODPLAIN RELATIONSHIPS

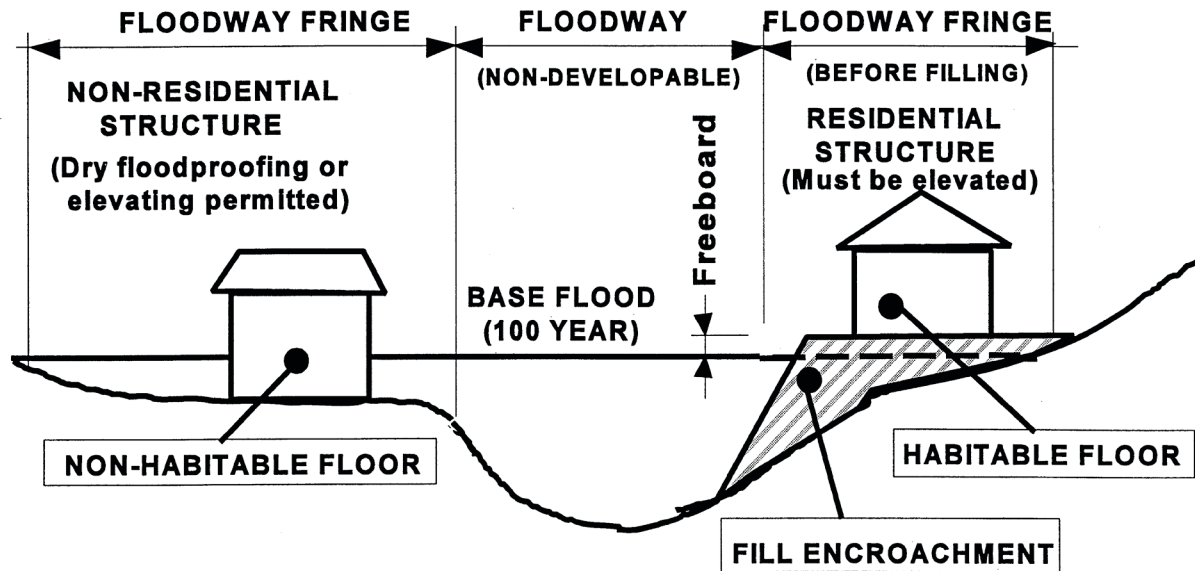


FIGURE 1 (Section 24.50.070)

FIGURE 2 (24.70)

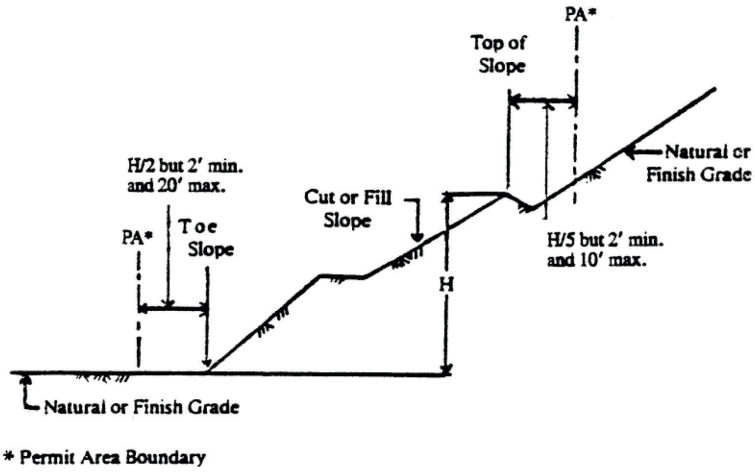


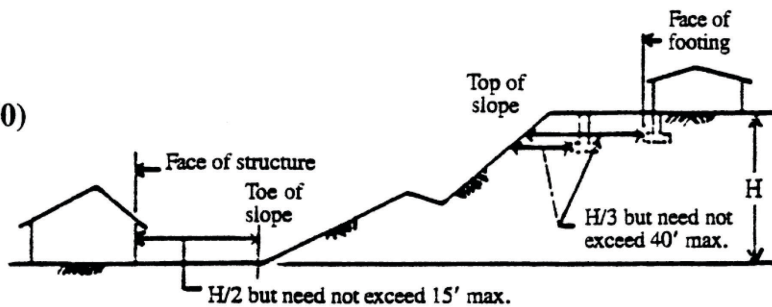
Table No. 24.70-C  
Required Setbacks from permit area boundary (in feet)

TABLE 24-70C

H	SETBACKS	
	a	b'
Under 5	0	1
5 - 30	H/2	H/5
Over 30	15	6

Additional width may be required for interceptor drain.

FIGURE 3 (24.70)





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the Bureau within 7 calendar days of the start of work, or, if mailed, be postmarked within 7 calendar days of the start of work.

**25.05.030 Plumbing Permit Application.**

(Amended by Ordinance Nos. 156924, 168183, 170576 and 176955, effective October 9, 2002.) An application for a plumbing permit shall be made on an application form furnished by the Bureau of Development Services. The application shall denote the name of the contractor who holds a State of Oregon Plumbing Contractor's Registration the State Contractors Certification Board registration and the City of Portland's Contractors Business License number. However, an owner may sign an application for a plumbing permit under the regulation as stated in Section 25.04.050, and any person may sign and obtain a plumbing permit for the plugging of a sewer or for disconnection of a roof drain system on one and two-family dwellings. An application for a permit for dry wells, or soakage trenches for storm water disposal may be taken out by an owner, plumbing contractor, or sewer contractor.

**25.05.040 Plumbing Plan Examination.**

(Amended by Ordinance Nos. 158895, 186183, 170576 and 181359, effective November 16, 2007.)

- A. Installations requiring plan review: Plumbing plan review is required for all complex structures as set forth in OAR 918-780-0040 cert ef. 10-1-06. Plan review for all other plumbing systems is optional.
- B. Submittal Requirements: When plan review is either required or requested, prior to the issuance of a building permit, three sets of plumbing plans and specifications providing the information as prescribed by the Director shall be filed with the Plumbing Section, Bureau of Development Services. Plans shall be of sufficient clarity to indicate the location, nature and extent of the work proposed.

**25.05.050 Life of Permit Limited.**

(Replaced by Ordinance No.190350, effective May 7, 2021.)

- A. Permit applications.
  - 1. Initial permit application. A permit application that is inactive for a period of 180 days will be deemed abandoned. If an abandoned permit application is not reactivated within 180 days of abandonment, the permit application will be void. If a permit application is void, a new permit application is required for the subject work.
  - 2. Extensions. The Building Official may extend a permit application for up to 180 days, with justifiable cause, as determined in the Building Official's sole discretion. Extension requests must be in writing and received by the

**TITLE 25  
PLUMBING REGULATIONS**

Bureau of Development Services before the scheduled permit abandonment date.

3. Reactivations. The Building Official may reactivate a permit application that has been abandoned for less than 180 days, with justifiable cause as determined in the Building Official's sole discretion. Reactivation requests must be in writing and received by the Bureau of Development Services within 180 days after the permit abandoned date. If no activity occurs within 180 days after a permit application is reactivated, the permit application will be deemed abandoned. A permit application may be reactivated only once.

**B. Issued Permits.**

1. Initial issued permit. If no inspection is approved within 180 days after permit issuance, the permit will expire. If an expired permit is not reactivated within 180 days of expiration, the permit will be void. If a permit is void, a new permit is required for the subject work.
2. Extensions. Each time an inspection is approved, the permit will automatically be extended for 180 days. The Building Official may also extend a permit for a period of up to 180 days with justifiable cause, as determined in the Building Official's sole discretion. Extension requests must be in writing and received by the Bureau of Development Services before the scheduled permit expiration date. If no inspection is approved within the extended time period, the permit will expire.
3. Reactivations. The Building Official may reactivate a permit that has been expired for less than 180 days, provided no changes have been made to the scope of work, and with justifiable cause as determined in the Building Official's sole discretion. A void permit may be reactivated provided there have been no changes to the scope of work and only the final inspection remains unapproved. Reactivation requests must be in writing and received by the Bureau of Development Services within 180 days after permit expiration. If no inspection is approved within 180 days of reactivation, the permit will expire. A permit may be reactivated only once.

- C. Fees.** When a new permit is required, a new permit application must be submitted and new fees must be paid based on the current adopted Bureau of Development Services fee schedule. The Bureau of Development Services will adopt policies for fee refunds or credits of previously submitted permits. Fees for permit extensions and reactivations may also be charged as adopted in the Bureau of Development Services fee schedule.



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**25.05.060 Fees.**

(Replaced by Ordinance No. 174720, effective August 21, 2000.) All required fees are stated in the Fee Schedule adopted by City Council. Fees will be updated annually or on an as needed basis. The approved Fee Schedule will be available at the Development Services Center.

**25.05.070 Repairs, Replacements, and/or Completions.**

(Amended by Ordinance No. 187432, effective December 4, 2015.)

- A. A regular fee shall be charged on all work for finishing any plumbing installation for which a permit was secured and which installation was roughed in only. Any such original permit will not cover any person other than the original permittee.
- B. The fees for alterations, replacements, or repairs shall be the same as for new work.
- C. If any work on the construction, alteration, repair, replacement, or completion of a plumbing system is commenced without a plumbing permit having first been secured, the Bureau may charge an investigation fee equal to the average or actual additional cost incurred by the City of ensuring that the work done without benefit of a permit is in conformance with the Oregon Plumbing Specialty Code and this Title, provided that when a person performing the work notifies the Bureau of Development Services before any work is commenced at a given location, and the permit is secured within 24 hours, not including Sundays or holidays, the investigation fee shall not be charged. Payment of such fee, however, shall in no way relieve such person of the penalties imposed for violation of this Title.

**25.05.080 Revocation.**

(Amended by Ordinance Nos. 176955 and 187432, effective December 4, 2015.) If, upon inspection, it is found that the workmanship or material employed does not in all respects conform to the statements given in the plumbing permit application or does not comply with the provisions of this Title and the Oregon Plumbing Specialty Code, the Bureau will issue a stop work order as set forth in Section 25.04.015 of this Title and all additional plumbing work under the permit will be suspended until permission to deviate from the specific terms of the permit is obtained or until the work already installed is corrected to comply fully with the terms of the permit. If the permittee fails to comply with the requirements outlined in the stop work order, the Bureau of Development Services will cancel the permit, informing the permittee in writing of the action, and posting a notice announcing such revocation at the site of the work. Thereafter it is unlawful for any person to perform any plumbing work upon such premises without first securing a new plumbing permit. Any person subject to a stop work order may seek review of the order by the Director and may appeal the Director's determination in accordance with City Code Section 3.30.080.

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**25.05.090 Partial Refund of Fees.**

(Amended by Ordinance Nos. 162101 and 187432, effective December 4, 2015.) Permit and plan check fees will, as a general rule, be refunded when the services covered by the fee have not commenced, and the permit or plan review fees were paid incorrectly due to an error on the part of the City. When a permit applicant requests a refund, but the City was not at fault in accepting payment, fees shall be retained to cover the cost of plan review or inspections actually performed and 20 percent of the amount remaining. State surcharge fees are only refundable when a permit was issued in error. Requests for refunds must be made within six months of payment or permit issuance, whichever is later. Refunds will be made to the same person or firm who paid the fee within three months of the request. Exceptions to the above requirements may be made by the Director or designee.

**25.05.100 Reduction of Fees.**

(Added by Ordinance No. 168183, effective November 1, 1994.) The Director may reduce any fee when, under the Director's authorization, another public agency, public utility, or other organization processes the permit thereby reducing the bureau's cost of issuing the permit.

**CHAPTER 25.06 - REGISTRATIONS**

**Sections:**

- 25.06.010 Compliance Agreement.
- 25.06.020 State Registration Number Required.

**25.06.010 Compliance Agreement.**

(Amended by Ordinance No. 178578, effective September 1, 2004.) Any person applying for registration and any owner doing any plumbing work, shall, in consideration of the granting of a plumbing permit therefor, agree to comply with all of the codes and ordinances of the City regulating plumbing, water, rainwater harvesting systems, sewers, and rain drain disposal, and with the provisions of the building regulations, housing regulations, health regulations, and the Oregon Plumbing Specialty Code.

**25.06.020 State Registration Number Required.**

(Amended by Ordinance Nos. 176955 and 188647, effective November 17, 2017.) The Bureau of Development Services shall not issue a plumbing permit to any plumbing contractor, or any sewer contractor, to install, construct, alter, or repair any plumbing or drainage system in the City, as defined and covered in this Title, unless such plumbing contractor or sewer contractor has been registered by the State of Oregon under the provisions of ORS 447.000 and unless the contractor's registration number has been filed with the Plumbing Division having jurisdiction. A journeyman plumber or plumber apprentice shall show a valid Oregon State certificate of competency or registration card on the request of an Inspector of the Plumbing Division, or other authorized person.

**25.06.050 Application for Examination.**

(Repealed by Ordinance No. 162101, effective August 1, 1989.)

**25.06.060 Appeal from Examining Board.**

(Repealed by Ordinance No. 162101, effective August 1, 1989.)

**25.06.070 Supervising Plumbers Registration and Fees.**

(Repealed by Ordinance No. 162101, effective August 1, 1989.)

**25.06.080 Registration - Nontransferable.**

(Repealed by Ordinance No. 162101, effective August 1, 1989.)

**25.06.090 Supervising Plumbers - Renewal - Re-examination.**

(Repealed by Ordinance No. 162101, effective August 1, 1989.)

**25.06.100 Penalties.**

(Repealed by Ordinance No. 162101, effective August 1, 1989.)

**25.06.110 Suspension or Revocation of Registration.**

(Repealed by Ordinance No. 156924, effective December 26, 1984.)

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**CHAPTER 25.07 - APPEALS**

(Chapter replaced by Ordinance No. 187432,  
effective December 4, 2015.)

**Sections:**

25.07.010 Bureau of Development Services Administrative Appeal Board.  
25.07.020 Plumbing Code Board of Appeal.

**25.07.010 Bureau of Development Services Administrative Appeal Board.**

- 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 the State of Oregon Plumbing Specialty Code adopted in this Title ("Plumbing Code");
  2. review requests for modifications to the strict application of the Plumbing 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 this Title or the Plumbing Code or who wants to request consideration of an alternative material, design or method of construction 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 Plumbing 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 the Plumbing Code was not correctly interpreted or applied; or
  2. approve an alternative material, design or method of construction if the Administrative Appeal Board finds that any such alternative complies with the intent of the Plumbing Code and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the Plumbing Code in quality, strength, effectiveness, fire resistance, durability, and safety. The Administrative Appeal Board may not waive the requirements of the Plumbing Code. The Administrative Appeal Board

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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 Plumbing 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 Plumbing Code Board of Appeal in accordance with Section 25.07.010 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 Plumbing Code Board of Appeal. The Plumbing 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 Plumbing 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.

**25.07.020 Plumbing Code Board of Appeal.**

- A. Appointment of Plumbing Code Appeal Board. In order to hear appeals of final decisions of the Building Official made under Section 25.07.010, there has been created a Plumbing Code Board of Appeal, consisting of three members appointed by the Mayor and approved by the City Council.
  - 1. Each member must be qualified by experience and training to make decisions pertaining to the Plumbing Code and matters pertaining to plumbing. At least one member must be a licensed plumbing contractor qualified through experience and training to decide matters concerning the safety of installations and devices regulated by this Title; one member shall be a person engaged in the design of plumbing installations qualified through experience and training to decide matters concerning the safety of installations and devices regulated by this Title; and one member must be qualified through training and experience to make decisions pertaining to the Plumbing Code and matters pertaining to plumbing.
  - 2. Plumbing Code Board of Appeal appointments shall be for three-year terms. Appeal Board members may 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

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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 Plumbing Code Appeal Board shall comply with the State ethics laws applicable to public officials.
  5. Members of the Plumbing Code Appeal Board shall serve in a voluntary capacity and without pay.
- B.** Appeals to the Plumbing Code Board of Appeal. The Plumbing 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 the Plumbing Code. The Plumbing 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 30 days after an interested party submits a written appeal to the Plumbing Code Board of Appeal. A panel of three Plumbing Code Board of Appeal members will hear each appeal. The Board may, by a majority vote, affirm, annul, or modify the decision.
- C.** Powers and Limitations of Authority of the Plumbing Code Board of Appeal Board. The Plumbing Code Board of Appeal may provide reasonable interpretations of the requirements of the Plumbing Code and may grant an appeal if the Board finds one of the following:
1. the Building Official or Director did not correctly apply or interpret the Plumbing Code; or
  2. any alternative material, design or method of construction and equipment complies with the intent of the Plumbing Code and the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the Plumbing Code in quality, strength, effectiveness, fire resistance, durability, and safety. The Plumbing Code Board of Appeal may not waive the requirements of the Plumbing Code.

Any person aggrieved by a final decision of the Plumbing 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.

**CHAPTER 25.08 - REPAIR OF PRIVATE  
SEWER SYSTEMS INVOLVING MORE  
THAN ONE PROPERTY**

(Chapter added by Ordinance No. 171028, effective  
March 26, 1997)

**Sections:**

- 25.08.010 Purpose.
- 25.08.020 Definitions.
- 25.08.030 Equal Responsibility for Repair and Nuisance Abatement.
- 25.08.040 Private Sewer System Traversing Another Property.
- 25.08.050 Damaged Private Sewer System as Nuisance.
- 25.08.060 Authority of City to Abate Nuisance and Lien Property.
- 25.08.070 Applicability.

**25.08.010 Purpose.**

(Amended by Ordinance No. 183397, effective January 8, 2010.) The purpose of this Chapter is to establish responsibility for the operation and repair of damaged common private sewers or private sewers that traverse another private property in the absence of any written agreement among or between property owners. It is the goal of the City to have each individual property served by an individual lateral to a public sewer. Nonconforming common private sewers or private sewers that traverse another property and are located in a private easement are exempt from this Section. This Chapter grants the City authority to abate nuisances created by the use of damaged private sewers, without regard to the fault of the property owner, and authorizes the City to recover the costs it incurs in abating these nuisances by assessing liens against properties served by the damaged private sewers. This Chapter allows property owners to seek any legal relief against any person responsible for causing or exacerbating damage to the private sewer.

**25.08.020 Definitions.**

(Amended by Ordinance No. 185694, effective November 23, 2012.)

- A. “Common Private Sewer System (also called Party Sewer)” means that portion of a building sewer that:
  - 1. Is not owned by the City of Portland;
  - 2. Is used for draining more than one building under different ownership; and
  - 3. Conveys the discharge to a sewer service lateral, public sewer, private sewage disposal system, or other point of disposal.

Common private sewers are found on private property and in private and public rights-of-way, including easements.

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- B.** “Damaged Private Sewer System.” Damaged Private Sewer System means a private sewer not in compliance with applicable governmental regulations.
- C.** “Owner.” Owner means the person shown on current assessment records in the County Office of Assessment and Taxation as the owner of the title to the real property or the contract purchaser of the real property. Owner also includes a deedholder or contract purchaser whose name does not appear in the latest assessment record, but who presents to the Bureau a copy of a deed or contract of sale showing the date, book, and page of recording.
- D.** “Repair of Private Sewer System.” Repair of a private sewer system means any work, including repairs, reconstruction, and replacement, required to return a damaged private sewer system to compliance with applicable government regulations.

**25.08.030 Equal Responsibility for Repair and Nuisance Abatement.**

An owner of a building using any damaged section of a common private sewer system shall be responsible equally for all costs of repair with any other owner whose building also uses that section of the damaged common private sewer. In addition, these owners shall be responsible equally for all costs associated with any abatement by the City of any nuisance created by their buildings’ use of that section of the damaged common private sewer and for all penalties for violations of this Code associated with the damaged sewer line.

Exception: When repair or abatement of a damaged common private sewer includes a new sewer connection of an individual property to a public sewer, the owner of that property shall be solely responsible for the cost of the new connection. In addition, the owner of the newly connected property may be responsible for other costs associated with repair and abatement of the damaged common private sewer when the Director determines that it would be fair and equitable to do so.

**25.08.040 Private Sewer System Traversing Another Property.**

When a damaged private sewer system serving a building on a property:

- A.** traverses another property prior to connecting to a public sewage disposal system, and
- B.** the damage occurs on the traversed property, and
- C.** the owner of the traversed property does not use the damaged section of the private sewer system,

then the owner of the property using the damaged private sewer system shall be fully responsible for the damaged private sewer system and for all costs and penalties assessed by the City for violations of this Code associated with the damaged sewer line.



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**25.08.050 Damaged Private Sewer System as Nuisance.**

Any damaged private sewer system is deemed a nuisance.

**25.08.060 Authority of City to Abate Nuisance and Lien Property.**

(Amended by Ordinance No. 180330, effective August 18, 2006.) If the owners using a damaged private sewer system neglect, refuse, or fail to correct the damage after the Bureau provides notice pursuant to Section 29.60.050, the City may correct the damage pursuant to Section 29.60.060, 29.60.070 or 29.60.080 and assess the property or properties using the system pursuant to the procedures in 29.70.020. In the case of a common private sewer system, the City shall calculate the amount of assessment on the property pursuant to 29.70.020. In addition, regarding a private sewer system traversing another property, the Bureau shall notify the owner whose property is traversed by but not connected to the damaged private sewer system that the system has been declared a nuisance. The City may enter that property to abate the nuisance after providing notice.

**25.08.070 Applicability.**

Section 25.08.030 shall not alter the terms and conditions of any easement of record, or of any other written agreement between or among owners. However, nothing in this section affects or impairs the City's authority under PCC 25.08.060.

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**CHAPTER 25.09 - CONVERSION OR  
ABANDONMENT OF NONCONFORMING  
SEWERS**

(Chapter added by Ordinance No. 185694, effective  
November 23, 2012.)

**Sections:**

- 25.09.010 Purpose.
- 25.09.020 Authority of the Bureau of Environmental Services to Regulate by Administrative Rule.
- 25.09.030 Authority of the Bureau of Environmental Services to Require Information.
- 25.09.040 Damaged Nonconforming Sewer as Nuisance.
- 25.09.050 Equal Responsibility for Repair and Nuisance Abatement.
- 25.09.060 Participation of the Bureau of Development Services in Appeals.

**25.09.010 Purpose.**

The purpose of this Chapter is to transfer from the Bureau of Development Services to the Bureau of Environmental Services (BES) certain regulatory authority over nonconforming sewers, as that term is defined in Chapter 17.33.

**25.09.020 Authority of the Bureau of Environmental Services to Regulate by Administrative Rule.**

The Director of BES may adopt, amend, repeal and enforce administrative rules and procedures pertaining to nonconforming sewers as provided by Titles 3, 17 and 22.

**25.09.030 Authority of the Bureau of Environmental Services to Require Information.**

BES may require owners of properties connected to nonconforming sewers to submit photographic or plumbing records or other evidence as it deems appropriate.

**25.09.040 Damaged Nonconforming Sewer as Nuisance.**

A damaged nonconforming sewer is deemed a nuisance. Subject to Title 22, BES may abate such nuisances and recover any costs incurred thereby through the assessment of liens against properties served by the nonconforming sewers.

**25.09.050 Equal Responsibility for Repair and Nuisance Abatement.**

The owner of each property connected to a damaged nonconforming sewer is proportionally liable for all costs of repair of the sewer, all costs associated with any City abatement efforts, and all penalties for violations of this Code.

**25.09.060 Participation of the Bureau of Development Services in Appeals.**

Appeals of BES requirements pertaining to nonconforming sewers will be processed in conjunction with the Bureau of Development Services Board of Appeal.

**26.04.070 Temporary Permits.**

(Amended by Ordinance No. 187432, effective December 4, 2015.) The Bureau will issue temporary permits for emergency electrical work or unanticipated electrical work as those terms are defined in and pursuant to OAR 918-309-0080, provided all of the requirements in OAR 918-309-0080 are met. Temporary permits will only be issued to licensed electrical contractors. Temporary permits are valid for 7 days.

When work is done under a temporary permit, the permit application and fees must either be received by the Bureau within 7 calendar days of the start of work, or, if mailed, be postmarked within 7 calendar days of the start of work.

**26.04.080 Life of Permit Limited.**

(Replaced by Ordinance No. 190350, effective May 7, 2021.)

**A. Permit applications.**

1. Initial permit application. A permit application that is inactive for a period of 180 days will be deemed abandoned. If an abandoned permit application is not reactivated within 180 days of abandonment, the permit application will be void. If a permit application is void, a new permit application is required for the subject work.
2. Extensions. The Building Official may extend a permit application for up to 180 days, with justifiable cause, as determined in the Building Official's sole discretion. Extension requests must be in writing and must be received by the Bureau of Development Services before the scheduled permit abandonment date.
3. Reactivations. The Building Official may reactivate a permit application that has been abandoned for less than 180 days, with justifiable cause as determined in the Building Official's sole discretion. Reactivation requests must be in writing and received by the Bureau of Development Services within 180 days after permit abandonment date. If no activity occurs within 180 days after a permit application is reactivated, the permit application will be deemed abandoned. A permit application may be reactivated only once.

**B. Issued permits.**

1. Initial issued permit. If no inspection is approved within 180 days after permit issuance, the permit will expire. If an expired permit is not reactivated within 180 days of expiration, the permit will be void. If a permit is void, a new permit is required for the subject work.
2. Extensions. Each time an inspection is approved, the permit will automatically be extended for 180 days. The Building Official may also extend a permit for a period of up to 180 days with justifiable cause, as

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determined in the Building Official's sole discretion. Extension requests must be in writing and must be received by the Bureau of Development Services before the scheduled permit expiration date. If no inspection is approved within the extended time period, the permit will expire.

3. Reactivations. The Building Official may reactivate a permit that has been expired for less than 180 days, provided no changes have been made to the scope of work, and with justifiable cause as determined in the Building Official's sole discretion. A void permit may be reactivated provided there have been no changes to the scope of work and only the final inspection remains unapproved. Reactivation requests must be in writing and received by the Bureau of Development Services within 180 days after permit expiration. If no inspection is approved within 180 days of reactivation, the permit will expire. A permit may be reactivated only once.

- C. Fees. When a new permit is required, a new permit application must be submitted and new fees must be paid based on the current adopted Bureau of Development Services fee schedule. The Bureau of Development Services will adopt policies for fee refunds or credits of previously submitted permits. Fees for permit extensions and reactivations may also be charged as adopted in the Bureau of Development Services fee schedule.

**26.04.090 Permit Suspension or Revocation.**

The Director may, in writing, suspend or revoke a permit issued under requirements of this Title whenever the permit is issued in error, or on the basis of incorrect information supplied, or in violation of any law, ordinance, or requirement of this Title.

**CHAPTER 26.05 - FEES**

**Sections:**

- 26.05.010 Permit Fees.
- 26.05.020 Refund of Fees.

**26.05.010 Permit Fees.**

(Replaced by Ordinance No. 174721, effective August 21, 2000.) All required fees are stated in the Fee Schedule adopted by City Council. Fees will be updated annually or on an as needed basis. The approved Fee Schedule will be available at the Development Services Center.

**26.05.020 Refund of Fees.**

(Replaced by Ordinance No. 174721, effective August 21, 2000.) When permit or plan review fees were paid incorrectly due to an error on the part of the City, permit and plan check fees will, as a general rule, be refunded in full when the services covered by the fees have not commenced. When a permit applicant requests a refund, but the City was not at fault in accepting payment, fees shall be retained to cover the cost of plan review or inspections actually performed and 20% of the amount remaining. State surcharge fees are only refundable when a permit was issued in error. Refund requests shall be made within 6 months of payment or permit issuance, whichever is later. Refunds shall be made to the same person or firm who paid the fee. Fees will be refunded within 3 months of receipt of the refund request. Exceptions to the above requirements may be made by the Director.

**26.05.030 Investigation Fees.**

(Repealed by Ordinance No. 174721, effective August 21, 2000.)

**26.05.040 Permit Fees.**

(Repealed by Ordinance No. 174721, effective August 21, 2000.)

**26.05.050 Electrical Master Permit (Industrial Plant) Program Fees and Master Permit/Annual Facilities Program Fees.**

(Repealed by Ordinance No. 174721, effective August 21, 2000.)

**26.05.060 Refund of Fees.**

(Repealed by Ordinance No. 174721, effective August 21, 2000.)

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**CHAPTER 26.06 - INSPECTIONS**

**Sections:**

- 26.06.010 Required Inspections.
- 26.06.020 Other Inspections.
- 26.06.030 Scope of Inspectors' Duties.
- 26.06.040 Inspection Requests.
- 26.06.050 Notice of Inspection Results and Corrections.
- 26.06.060 Electrical Connections.
- 26.06.070 Electrical Reconnections.
- 26.06.080 Reinspection.
- 26.06.090 Inspections in Other Jurisdictions of Custom-Built Electrical Products.

**26.06.010 Required Inspections.**

(Amended by Ordinance No. 187432, effective December 4, 2015.) All electrical installations requiring an electrical permit shall be subject to inspection. Work shall not be covered prior to inspection. The Bureau may inspect electrical installations at such times deemed necessary to obtain compliance with the Electrical Code and this Title in accordance with OAR 918-271.

**26.06.020 Other Inspections.**

(Amended by Ordinance No. 187432, effective December 4, 2015.) In addition to the required inspections specified in Section 26.06.010, the Director may make or require other inspections of any electrical installation to ascertain compliance with the Electrical Code and this Title.

**26.06.030 Scope of Inspectors' Duties.**

(Amended by Ordinance No. 187432, effective December 4, 2015.) Inspectors inspect electrical installations and provide public information on the meanings or applications of Electrical Code provisions, but do not lay out work or act as consultants for electrical contractors, property owners or users.

**26.06.040 Inspection Requests.**

(Amended by Ordinance No. 187432, effective December 4, 2015.) It is the responsibility of the person doing the work authorized by the permit to notify the Bureau when the work is ready for inspection. A person requesting an inspection shall ensure access and means for the Bureau to perform the required inspection. Neither the Director nor the City shall be liable for expenses incurred in removing or replacing any material required to conduct any inspection.

**26.06.050 Notice of Inspection Results and Corrections.**

(Amended by Ordinance No. 187432, effective December 4, 2015.)

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- A.** The Bureau shall provide notice of the inspection results and corrections required to be made to defective electrical installations in accordance with OAR 918-271-0020.

Corrections of defective electrical installations shall be completed and an inspection requested within 20 calendar days of the correction notice being given in accordance with OAR 918-271-0020. Extensions may be granted by the Bureau for reasonable cause. Failure to complete corrections and request an inspection within the time provided may result in the Bureau gaining compliance by:

1. Any of the remedies outlined in Chapter 3.30; or,
  2. Revoking the permit.
- B.** If the premises affected become vacant, the premises shall not be occupied for dwelling purposes until necessary permits are obtained, corrections are completed, and the corrections are inspected and approved by the Bureau.

**26.06.060 Electrical Connections.**

(Amended by Ordinance No. 187432, effective December 4, 2015.) Connecting electrical installations to an electrical supply source shall be done only after approval by the Bureau. Such inspection approval is identified by the City of Portland Electrical Inspection Record initialed by the Director and posted on the panel box or other conspicuous place.

**Exceptions:** An electrical installation under this Title may be legally energized prior to inspection provided:

- A.** A licensed supervising electrician qualified pursuant to ORS 479.630 (2) submits a written Request to Energize form to which the appropriate electrical permit has been attached; or,
- B.** The electrical contractor is performing minor electrical work utilizing a valid minor installation label or when the installation is under an Electrical Master Permit (Industrial Plant) Program.

**26.06.070 Electrical Reconnections.**

When a building has been vacant and the power has been off for 6 months, the Director shall inspect the building prior to reconnection of power. A reconnection permit fee shall be paid prior to the inspection.

**26.06.080 Reinspection.**

A reinspection may be required, and a reinspection fee may be assessed, if any of the following conditions exist:

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- A.** Access to the work to be inspected is unobtainable or denied upon arrival of the Director; or,
- B.** Unapproved installation has been covered in a manner which prevents the Director from determining compliance with this Title; or,
- C.** Corrections required from a previous inspection have not been completed; or,
- D.** Work has not been started or is substantially incomplete.

**26.06.090 Inspections in Other Jurisdictions of Custom-Built Electrical Products.**

Electrical products intended for use within the City shall meet the requirements of this Title even when fabricated in another jurisdiction. The Director may require in-plant or on-site inspection of the fabricating process to ensure acceptability of the finished fabrication for use within the City.

Such in-plant or on-site inspection costs as determined by the Director shall be paid by the product fabricator prior to Bureau authorization for product use within the City.



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**CHAPTER 26.07 - REGISTRATION OF**  
**ELECTRICAL CONTRACTORS**

(Chapter is repealed by Ordinance No. 187432,  
effective December 4, 2015.)

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**CHAPTER 26.08 - ELECTRICAL MASTER  
PERMIT (INDUSTRIAL PLANT) PROGRAM**

**Sections:**

- 26.08.010 Program.
- 26.08.020 Application Requirements.
- 26.08.030 Application Form.
- 26.08.040 License Requirements.
- 26.08.050 No Separate Permit Required.
- 26.08.060 Registration Suspension and Termination.
- 26.08.070 Appeal of Suspension or Termination Order.

**26.08.010 Program.**

The Bureau shall conduct an Electrical Master Permit (Industrial Plant) Program as identified in OAR 918-309-0100. This program shall regulate repair, alteration or replacement of existing electrical products in qualified facilities and electrical installations which are part of a tenant remodel or construction within a covered facility involving a mechanical, plumbing or structural master permit. Electrical product replacement includes installing a product in place of another that does not exceed the capacity or design of the existing electrical system. The following types of facilities are allowed to be registered for the Master Permit (Industrial Plant) Program:

- A. Industrial producer or servicer;
- B. School;
- C. Hospital;
- D. Sewer plant;
- E. Water plant;
- F. Commercial office building;
- G. Buildings owned, leased, managed or operated by a state or local government entity;
- H. Institution;
- I. Any other category of facility designated by the State Electrical and Elevator Board.

**26.08.020 Application Requirements.**

Applicants for registration in the Electrical Master Permit (Industrial Plant) Program shall be the owner, building operations manager or electrical contractor responsible for all electrical installations in the facility. Each registration shall be limited to a single facility,

which may be more than one building in a complex of buildings. Applicants with multiple facility locations on non-contiguous lots shall obtain a registration for each facility.

**26.08.030 Application Form.**

An application for a registration shall be made on the form furnished by the Bureau. The applicant shall provide all information required in a complete and legible manner. Registration fees shall be paid at the time of application.

**26.08.040 License Requirements.**

Electrical work shall not be done beyond the scope of the license held. Applicants with Limited Maintenance Electricians or Limited Building Maintenance Electricians on staff are not required to hold an Electrical Contractor's License or to employ a Supervising Electrician for work within the scope of these limited license categories. Before registration will be granted, applicants shall either:

- A. Employ one or more persons possessing an Oregon Limited Maintenance Electrician's License, a Limited Building Maintenance Electrician's License, or other Oregon electrical license as allowed by the OAR; or,
- B. Contract for electrical work with a licensed electrical contractor employing a signing supervising electrician.

**26.08.050 No Separate Permit Required.**

When a facility is registered in the Electrical Master Permit (Industrial Plant) Program, no separate permit is required for repair, alteration or replacement of existing electrical products. Any electrical work not covered by the Electrical Master Permit (Industrial Plant) Program requires the completion and submission of an electrical permit application to the Bureau prior to performing such work. Any installation outside the scope of the Electrical Master Permit (Industrial Plant) Program shall be installed by appropriately licensed electricians and shall be inspected by the Bureau.

**26.08.060 Registration Suspension and Termination.**

If any registrant refuses or neglects to comply with the requirements of this Title or a related regulation (all regulations pertaining to building construction, remodeling or alteration are related regulations) within 30 calendar days after the Bureau has sent the written correction notice, the Bureau may suspend or terminate the registration. In addition, the penalty provided for in this Title may be enforced, and all work shall be corrected and made to comply with the requirements of this Title. A new registration shall not be issued or suspension lifted until all violations cited have been corrected.

**26.08.070 Appeal of Suspension or Termination Order.**

If the Bureau orders the suspension or termination of a Master Permit (Industrial Plant) registration, the registrant aggrieved may appeal, in writing, to the Electrical Board of Appeal within 15 calendar days after such order. The registrant shall be given not less than 15 calendar days notice of the hearing. The Board shall proceed to hear and determine the

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appeal. Any suspension of a registration by the Electrical Board of Appeal may be on such conditions as the Board may order. In all cases, decisions of the Board shall be final.

**CHAPTER 26.09 - MINOR INSTALLATION  
LABEL PROGRAM**

**Sections:**

- 26.09.010     General.
- 26.09.020     Requirements for Minor Labels.
- 26.09.030     Inspection and Enforcement Authority.
- 26.09.040     Violations.

**26.09.010     General.**

(Amended by Ordinance No. 179125, effective April 1, 2005.) ORS 455.155 gives the Department of Consumer and Business Services the authority to create a statewide permit and inspection system for minor construction work. The Oregon Building Codes Division under the Department of Consumer and Business Services has created a statewide minor labels program. Implementation rules are found in Oregon Administrative Rules 918-100-000 through 918-100-060. The Bureau will operate the Minor Electrical Label Program in accordance with the Oregon Administrative Rules. The Minor Installation Label Program utilizes minor labels in lieu of regular electrical permits.

**26.09.020     Requirements for Minor Labels.**

(Added by Ordinance No. 179125, effective April 1, 2005.) Minor Electrical Labels may be used in all occupancies (including commercial, industrial, apartment, multi-family and one and two family residence installations). As provided by Oregon law, the Tri-County Service Center sells minor electrical labels. The Bureau will refer all requests for minor electrical labels to the Tri-County Service Center.

**26.09.030     Inspection and Enforcement Authority.**

(Added by Ordinance No. 179125, effective April 1, 2005.) The Bureau, in accordance with Oregon Administrative Rule 918-100-0060, shall conduct inspections and issue necessary correction notices for labels issued by the Tri-County Service Center.

**26.09.040     Violations.**

(Added by Ordinance No. 179125, effective April 1, 2005.) It is unlawful to violate the requirements of this section. Any violation of this section may be sanctioned by application of the remedies provided in Section 3.30.040.

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**CHAPTER 26.10 - CERTIFIED ELECTRICAL  
PRODUCT REQUIREMENTS**

**Sections:**

- 26.10.010 Electrical Products to be Approved.  
26.10.020 Exempt Product Inspections.

**26.10.010 Electrical Products to be Approved.**

No person, firm, or corporation shall sell, transfer or otherwise dispose of any electrical product, material or device which is used or intended to be used in the installations regulated by this Title, unless such product, material or device has been certified or listed as per ORS 479.760.

**26.10.020 Exempt Product Inspections.**

Some products are exempted from certification by ORS 479.540. The Bureau shall inspect the installation of any exempt product to ensure that Electrical Code requirements are met.

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returned to the applicant, which set shall be kept on such building or work site at all times during which the work authorized is in progress.

When the plans and specifications do not comply with provisions of this Title, the necessary changes or revisions shall be made thereto.

Every plan shall be a print or other type of plan approved by the Director. The information contained on the plans shall be clearly legible and specifically indicated. No plan shall be of a scale smaller than 1/8 inch per foot.

Specifications, legibly and definitely stated, shall be included either on the plan or on separate sheets.

The approval of any plans or specifications shall not be construed to sanction any violation of this Title.

No person shall deviate materially from any approved plans or specifications or fail, neglect, or refuse to comply therewith unless permission to do so has been obtained from the Director.

The plans or specifications shall show the following:

1. Layout for each floor with dimensions of all working spaces and a legend of all symbols used.
2. Location, size, and material of all piping.
3. Location, size, and materials of all air ducts, air inlets, and air outlets.
4. Location of all fans, warm-air furnaces, boilers, absorption units, refrigerant compressors and condensers and the weight of all pieces of such equipment weighing 200 pounds or more.
5. Rated capacity or horsepower of all boilers, warm-air furnaces, heat exchangers, blower fans, refrigerant compressors and absorption units.
6. Location, size, and material of all combustion products, vents, and chimneys.
7. Location and area of all ventilation and combustion air openings and ducts.
8. Location of all air dampers and fire shutters.
9. First sheet of each set of plans and specifications shall show the address of the proposed work and the name and address of the owner or lessee of the premises.

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- 10.** Plans and specifications shall be of sufficient clarity to show that the proposed installation will conform to the provisions of this Title and of all applicable laws, ordinances, rules, regulations, and orders.
- C.** Issuance. When the Director determines that the information on the application is in conformance with this Title, a permit will be issued upon receipt of the total fees.

**27.03.030 Validity and Length of Permit.**

(Amended by Ordinance Nos. 150873, 162103, 174880, 187432, 188647 and 190350, effective May 7, 2021.)

- A.** Validity. The issuance or granting of a permit or approval of plans and specifications will not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Title. No permit presuming to give authority to violate or cancel the provisions of this Title will be valid, except insofar as the work or use which it authorizes is lawful.

The issuance of a permit based upon plans and specifications will not prevent the Director from thereafter requiring the correction of errors in said plans and specifications or from preventing construction being carried on thereunder when in violation of this Title or of any other ordinance.

- B.** Life of Permit Limited.

- 1.** Permit applications.

- a.** Initial permit application. A permit application that is inactive for a period of 180 days will be deemed abandoned. If an abandoned permit application is not reactivated within 180 days of abandonment, the permit application will be void. If a permit application is void, a new permit application is required for the subject work.
- b.** Extensions. The Building Official may extend a permit application for up to 180 days, with justifiable cause, as determined in the Building Official's sole discretion. Extension requests must be in writing and received by the Bureau of Development Services before the scheduled permit abandonment date.
- c.** Reactivations. The Building Official may reactivate a permit application that has been abandoned for less than 180 days, with justifiable cause as determined in the Building Official's sole discretion. Reactivation requests must be in writing and received by the Bureau of Development Services within 180 days after permit abandonment date. If no activity occurs within 180 days after a



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permit application is reactivated, the permit application will be deemed abandoned. A permit application may be reactivated only once.

- 2.** Issued permits.
    - a.** Initial issued permit. If no inspection is approved within 180 days after permit issuance, the permit will expire. If an expired permit is not reactivated within 180 days of expiration, the permit will be void. If a permit is void, a new permit is required for the subject work.
    - b.** Extensions. Each time an inspection is approved, the permit will automatically be extended for 180 days. The Building Official may also extend a permit for a period of up to 180 days with justifiable cause, as determined in the Building Official's sole discretion. Extension requests must be in writing and received by the Bureau of Development Services before the scheduled permit expiration date. If no inspection is approved within the extended time period, the permit will expire.
    - c.** Reactivations. The Building Official may reactivate a permit that has been expired for less than 180 days, provided no changes have been made to the scope of work, and with justifiable cause as determined in the Building Official's sole discretion. A void permit may be reactivated provided there have been no changes to the scope of work and only the final inspection remains unapproved. Reactivation requests must be in writing and received by the Bureau of Development Services within 180 days after permit expiration. If no inspection is approved within 180 days of reactivation, the permit will expire. A permit may be reactivated only once.
  - 3.** Fees. When a new permit is required, a new permit application must be submitted and new fees must be paid based on the current adopted Bureau of Development Services fee schedule. The Bureau of Development Services will adopt policies for fee refunds or credits of previously submitted permits. Fees for permit extensions and reactivations may also be charged as adopted in the Bureau of Development Services fee schedule.
- C.** Suspension or Revocation. The Director may, in writing, suspend or revoke a permit issued under provisions of this Title whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this Title.
- D.** Investigation Fees: Work Without a Permit.

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1. Investigation. Whenever any work for which a permit is required by this Title has been commenced without first obtaining said permit, an investigation will be made before a permit may be issued for such work.
2. An investigation fee, in addition to the permit fee, will be collected whether or not a permit is then or subsequently issued. The Bureau may charge an investigation fee equal to the average or actual additional cost incurred by the City of ensuring that the work done without benefit of a permit is in conformance with the Mechanical Code and this Title. The payment of such investigation fee will not exempt any person from compliance with all other provisions of this Title nor from any penalty prescribed by law.

**27.03.031 Master Permit/Facility Permit Program.**

(Added by Ordinance No. 172431; amended by Ordinance Nos. 173976 and 187432, effective December 4, 2015.) The Master Permit/Facility Permit program is a special inspection program authorized under Oregon Revised Statute 455.154. This program is available to commercial/industrial building owners and building management companies to streamline the approval of maintenance/repair and tenant improvement work on their private facilities.

**27.03.035 Minor Mechanical Labels.**

(Added by Ordinance No. 171774; amended by Ordinance No. 187432, effective December 4, 2015.)

- A. General. Oregon Revised Statutes Chapters 455.154 and 455.155 establishes special alternative inspections programs for other than new construction. One of these programs is the Minor Label Program. Implementation rules are found in Oregon Administrative Rules 918-100-0000 through 918-100-0600. The Bureau will operate the Minor Mechanical Label Program in accordance with the Oregon Administrative Rules. The Minor Mechanical Label Program utilizes minor labels in lieu of regular building permits. Random inspections are made to ensure compliance of minor work.
- B. Requirements. Minor Mechanical Labels may be used in all occupancies. Labels are sold in groups of ten. No more than one minor mechanical label may be used on any single project. A single project is defined as not more than one minor label used per calendar month for each address, suite or tenant space.
- C. Work Allowed. The following work may be done under a Minor Mechanical Label:
  1. Moving or replacing duct work not involving fire dampers or penetrations of fire walls, fire assemblies or floors;
  2. Moving grills in duct work;

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3. Replacing existing heating, cooling and ventilation equipment (minor alteration of gas piping and venting permitted to allow for unit configuration);
  4. Adding a central air conditioning unit to existing ductwork in one- and two-family dwellings; or
  5. Installing a mechanical exhaust fan for radon mitigation systems in one- and two-family dwellings.
- D.** Violations. It is unlawful to violate the requirements of this section. The Director may enforce the requirements of this Chapter by any of the remedies in Portland City Code Chapter 3.30.
- E.** Expiration. Minor mechanical labels expire six months from the date of purchase, and are not refundable or transferable.

**27.03.040 Heating and Ventilating Fees.**

(Replaced by Ordinance No. 174902, effective September 13, 2000.)

- A.** All required fees are stated in the Fee Schedule adopted by City Council. Fees will be updated annually or on an as needed basis. The approved Fee Schedule will be available at the Development Services Center.
- B.** Permit and plan check fees will, as a general rule, be refunded when the services covered by the fee have not commenced, and the permit or plan review fees were paid incorrectly due to an error on the part of the City. When a permit applicant requests a refund, but the City was not at fault in accepting payment, fees shall be retained to cover the cost of plan review or inspections actually performed and 20 percent of the amount remaining. State surcharge fees are only refundable when a permit was issued in error. Requests for refunds must be made within six months of payment or permit issuance, whichever is later. Refunds are to be made to the same person or firm who paid the fee within three months of the request. Exceptions to the above requirements may be made by the Director or designee.

**27.03.050 Inspection.**

(Amended by Ordinance No. 187432, effective December 4, 2015.) All equipment for which a permit is obtained under this Title shall be inspected by the Director. No portion of any equipment intended to be concealed by any permanent portion of the building shall be concealed until inspected and approved. When the installation of any equipment is complete, a second or final inspection shall be made. Equipment regulated by this Title shall not be connected to the fuel or power supply until authorized by the Director.

**EXCEPTION:** The requirements of this Section shall not be considered to prohibit the operation of any heating equipment installed to replace existing heating equipment serving an occupied portion of a building, in the event a request for inspection of such heating

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equipment has been filed with the Bureau not more than 48 hours after such replacement work is completed, and before any portion of such equipment is concealed by any permanent portion of the building. A final inspection approval may, upon notice, be revoked by the Director if the heating, ventilating, comfort cooling, or refrigeration equipment fails in any respect to comply with the requirements of this Title, or if the installation is unsafe, dangerous, or a hazard to life or property.

**27.03.060 Request for Inspection.**

(Amended by Ordinance No. 187432, effective December 4, 2015.) The Director may require that every request for inspection be filed at least 1 day before such inspection is desired. Such request may be in writing or by telephone at the option of the Director. It shall be the duty of the person requesting inspection of any equipment regulated by this Title to provide access to and means for proper inspection of such equipment. The Director shall not be liable for any expense entailed in the removal or replacement of any material required to allow the inspection.

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**CHAPTER 27.05 - EQUIPMENT-GENERAL**

(Chapter amended by Ordinance Nos. 144249 and  
150873, effective January 17, 1981.)

**Sections:**

27.05.021 Capacity.

**27.05.021 Capacity.**

(Amended by Ordinance No. 187432, effective December 4, 2015.) Every dwelling unit and guest room shall be provided with heating facilities capable of maintaining a room temperature of 68 degrees Fahrenheit or 20 degrees Celsius at a point 3 feet or 91.44 centimeters above the floor in all of the City of Portland habitable rooms.

The version of the Oregon Energy Efficiency Specialty Code adopted by the City in Section 24.10.040 shall regulate the design and construction of the exterior envelopes and selection of heating, ventilating and air conditioning systems and equipment.

- A. The annual degree days is 4,792 for heating and is 300 for cooling. The design temperature is 23 degrees Fahrenheit for winter and 85 degrees Fahrenheit for summer.
- B. Indoor design temperature shall be 68 degrees Fahrenheit for heating and 78 degrees Fahrenheit for cooling.

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**CHAPTER 27.19 - ELECTRIC HEATING  
SYSTEMS**

**Sections:**

- 27.19.050 Serving Utility Requirements.
- 27.19.051 Requirements for Converting Electrical Energy to Thermal (Heat) Energy.
- 27.19.052 Electrical Service Capacity.
- 27.19.053 Electric Floor Furnaces.
- 27.19.054 Electric Central Heating Systems.
- 27.19.055 Electric Heating-Resistance Cable Type.
- 27.19.056 Electric Panel-Prefabricated Conductive Materials.
- 27.19.057 Resistance Heating Units.
- 27.19.058 Other Permanently Placed Electric Heaters.
- 27.19.059 Installation of Resistance Heaters in Air Ducts.

**27.19.050 Serving Utility Requirements.**

Evidence shall be submitted that adequate electrical service will be available and provided by the local utility company. The labeled voltage of the equipment shall be within 5 percent of the service voltage provided.

**27.19.051 Requirements for Converting Electrical Energy to Thermal (Heat) Energy.**

- A.** The total rating (or adjusted rating) of heat emission devices in each room or space to be heated shall equal or exceed the calculated B.T.U. heat loss of such room or space, except that in bedrooms to be heated, a tolerance of not more than 20 percent less than the calculated B.T.U. required to offset the B.T.U. heat loss from such room will be allowed providing such deficiency is made up in other areas regarded as living area when computing the total calculated B.T.U. required for the dwelling.
- B.** The total rating (or adjusted rating) of the heat emission devices shall equal or exceed the calculated B.T.U. aggregate heat loss of all the rooms or spaces heated where used as living quarters.
- C.** The output in B.T.U. of each heat generating and emission unit shall be computed at the location where the electrical energy is converted to thermal (heat) energy. The conversion of electrical energy to thermal (heat) energy shall be considered at an efficiency of 100 percent providing the labeled voltage of the equipment is within 5 percent of the service voltage. Where the labeled voltage of a heat generating or emission unit is greater or less than 5 percent of the service voltage, an adjusted rating of the heat generating or emission unit shall be used in determining the B.T.U. output.

$$\begin{aligned} \text{The adjusted B.T.U. rating} &= \\ &3413 \times (\text{Service voltage})^2 \\ &(\text{Label voltage})^2 \times \text{KW name plate rating} \end{aligned}$$

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**27.19.052 Electrical Service Capacity.**

(Repealed by Ord. No. 144049; passed and effective July 14, 1977.)

**27.19.053 Electric Floor Furnaces.**

For self-contained heating units in the form of electric floor furnaces which are intended to heat spaces other than the room or space in which the device is located, the following requirements shall apply:

- A. The distance between the heater outlet and the center of any space to be heated by it, shall not exceed 18 feet (20 feet for kitchens) measured through the center of the intervening openings;
- B. There shall not be more than one doorway and one archway between the heater outlet and any space or room to be heated by it;
- C. A return inlet shall not be located in the bathroom, in a space used for storage purposes or in any other confined space;
- D. A separate manual disconnect shall be provided for each heating device;
- E. Thermostatic control shall be provided within the heated space, except that no thermostatic control shall switch any combination of heater elements totaling more than 7 kilowatts simultaneously;
- F. Heating units of any type located in halls where openings are provided with doors, or in other limited areas which may confine the heat output of the device, shall be provided with thermostatic control or other air temperature limiting device, located within a hall or other limited area, to control the air temperature of the hall or other limited area in which the heating unit is located.

(This may be a thermostat located in the hall or other limited area containing the heating device, arranged to operate in series with other thermostatic controls located elsewhere.)

- G. An unobstructed passageway, not less than 2 feet in width, shall be provided on at least one side of a flat register type floor furnace, to permit passage without stepping over or on the register.
- H. Flat register floor furnaces shall not be placed closer than 6 inches to any wall. Wall register floor furnaces shall not be placed closer than 6 inches to a wall corner. Floor furnaces shall be placed so that a door in the open position, or draperies and similar combustible materials, cannot be closer than 12 inches to the register.

**27.19.054 Electric Central Heating Systems.**

(Amended by Ordinance No. 187432, effective December 4, 2015.)

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- A. Central heating systems of the forced air type shall conform to the general installation requirements of this Title. The equivalent KW capacity of such a system shall equal the calculated heat loss of the living quarters of the dwelling in B.T.U. per hour, at design conditions, plus not less than 10 percent greater than the total building heat loss in size, when it is the only source of heating. The total output of such a system in B.T.U. shall be computed at the location where the thermal (heat) energy is converted and/or transferred to the circulated air.
- B. For resistance electric heating elements the conversion of electric energy to thermal (heat) energy shall be considered at an efficiency of 100 percent.
- C. For electrically operated heat pump equipment, acceptable evidence of equipment heating performance characteristics shall be provided and the equivalent KW capacity determined therefrom.

**27.19.055 Electric Heating-Resistance Cable Type.**

- A. Resistance cable shall not be installed in walls.
- B. Cables may be installed in ceilings or poured masonry floors. Cables shall not extend beyond the room in which they originate. Cables shall not be installed in closets, over cabinets which extend to the ceiling, under walls or partitions, or over walls or partitions which extend to the ceiling, except that single runs of cable may pass over partitions where embedded. This requirement shall not prohibit low-temperature heat sources in closets to control relative humidity.
- C. Cables shall be separated at least 8 inches from lighting fixtures, outlets and junction boxes, and 2 inches from ventilating openings and other such openings in room surfaces, or sufficient area shall be provided to assure that no heating cables will be covered by surface mounted lighting units.
- D. A separate manual disconnect shall be provided for each space heated.
- E. Thermostatic control shall be provided in each heated space, except that no individual thermostatic control shall switch any combination of heaters totaling more than 7 kilowatts.
- F. Thermostatic controls shall not be installed on cable until the wattage has been inspected by a Building Official and approval posted on the job.

**27.19.056 Electric Panel - Prefabricated Conductive Materials.**

- A. Prefabricated conductive panels shall not extend beyond the room in which they originate.
- B. Panels shall not be installed on walls.



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- C. Panels may be mounted on ceilings.
- D. Panels shall be separated at least 8 inches from lighting fixtures, outlets, and junction boxes, and 2 inches from ventilating openings and other such openings in room surfaces, or sufficient area shall be provided to assure that no heating panels will be covered by surface mounted lighting units.
- E. A separate manual disconnect shall be provided for each space heated.
- F. Thermostatic control shall be provided in each heated space, except that no individual thermostatic control shall switch any combination of heaters totaling more than 7 kilowatts.

**27.19.057 Resistance Heating Units.**

- A. All resistance heating units installed shall comply with the following:
  - 1. In accordance with their individual listings.
  - 2. No part of heater or heaters will be covered or blanketed by a door, draperies, curtains or other combustibles in such a manner as to raise the normal operating surface temperature of the unit.
  - 3. A separate manual disconnect shall be provided for each space heated.
  - 4. Thermostatic control shall be provided in each heated space, except that no individual control shall switch any combination of heaters totaling more than 7 kilowatts.

**27.19.058 Other Permanently Placed Electric Heaters.**

Nothing in the regulations contained in this Chapter shall prohibit the installation of other types of permanently placed electrical heat-generating and emission units not presently covered herein when such units are approved by the Underwriters' Laboratories, Inc., and installed in a manner approved by such Laboratories providing they meet the general provisions of this Chapter and further that a separate disconnect shall be provided in each heated space, except that no individual thermostatic control shall switch any combination of heaters totaling more than 7 kilowatts.

**27.19.059 Installation of Resistance Heaters in Air Ducts.**

Installation of resistance heaters in air ducts shall be permitted, subject to the following requirements:

- A. A heater which is to be installed in an air duct or plenum shall be approved for the purpose and shall be installed in the manner approved for the equipment;

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- B.** Each such heater installation shall be provided with approved controls, consisting of an air-flow switch or pressure differential switch, which will disconnect the power supply to the heaters in the case of failure of a normal air flow across the heaters for any reason, such as blocked filters, motor failure, broken belts, shafts, or other driving equipment, etc., and shall be provided with an approved temperature-limiting control. In addition, a supplementary independent control shall also be provided in each duct heater to prevent overheating. This device shall be manually resettable or replaceable;
- C.** They shall not be located outdoors, unless specifically approved;
- D.** They shall not be installed in downflow systems;
- E.** Except for approved heater assemblies used in conjunction with a heat pump or central air conditioner, the heater shall not be located closer than 4 feet to the flange of the heat pump or air conditioner unit;
- F.** Two or more duct heaters may be installed in a group in duct work when specifically approved for this purpose and under such restrictions as may be necessary to ensure safe operation;
- G.** Duct heaters shall be approved for zero clearance from combustible materials, except that the terminal and/or control box of a duct heater shall have a minimum access clearance of 24 inches to permit servicing and adjustment to the controls;
- H.** An inspection panel with an area of not less than 140 square inches and a minimum dimension of 5 inches shall be provided in the duct immediately adjacent to, and on the upstream side of, each electric duct heater. The panel shall provide access for cleaning dust and debris from the heater and means for checking concealed heat limiters. The panel shall be marked, "Disconnect heater before removing this panel."
  - 1.** EXCEPTION: An access panel will not be required for electric duct heaters of the slide-out type if they are supplied by flexible conduit and -
    - a.** Are readily removable.
    - b.** Weigh less than 50 pounds.
    - c.** Have a maximum dimension of 3 feet for that portion which extends into the duct,
  - 2.** A separate access panel will not be required where the electric duct heater is located within one foot of a removable room grill and the heater is removable through the grill opening;

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- I. Duct and plenum heater controller equipment shall be accessible with the disconnecting means installed at or within sight of the controller.



## TITLE 30 - AFFORDABLE HOUSING

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**TITLE 30 - AFFORDABLE HOUSING**

(Title added by Ordinance No. 172844, effective November 4, 1998)

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**CHAPTER 30.01 - AFFORDABLE HOUSING  
PRESERVATION AND PORTLAND RENTER  
PROTECTIONS**

(Chapter amended by Ordinance No. 187380,  
effective November 13, 2015.)

**Sections:**

- 30.01.010 Policy.
- 30.01.020 Intent.
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- 30.01.160 Three-Bedroom Unit FAR Density Bonus Option Program.

**30.01.010 Policy.**

(Amended by Ordinance No. 187380, effective November 13, 2015.) It is the policy of the City of Portland that all Portlanders, regardless of income level, family composition, race, ethnicity or physical ability, have reasonable certainty in their housing, whether publicly assisted or on the private market. Consequently, publicly assisted rental housing affordable to low and moderate income persons and households should be preserved as a long-term resource to the maximum extent practicable, and the tenants of such properties should receive protections to facilitate securing new housing should the affordable units be converted to market rate units or otherwise be lost as a resource for low and moderate income housing. Likewise, Portland renters in unregulated housing on the private market, need additional protections to ensure that there is adequate time to find alternative housing in the case of a no cause eviction and adequate time to budget for an increase in rent.



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**30.01.020 Intent.**

(Amended by Ordinance No. 187380, effective November 13, 2015.) The intent of this Title is to protect the availability of publicly assisted affordable housing for low and moderate income households by: providing for notice to the City and tenants when transitions from current assistance programs and/or affordable housing uses are planned; providing purchase opportunities for the City to attempt to preserve the affordable housing while respecting ownership interests of building owners; providing tenant relocation assistance when the affordable housing is converted; and, ensuring long term affordability in future projects that the City assists with public financing designed to create or preserve affordable housing; and ensuring that all Portland renters, have additional protections to ensure more certainty in their housing security.

**30.01.030 Definitions.**

(Amended by Ordinance Nos. 186028, 187380, 188163, 189323 and 190381, effective April 30, 2021.)

- A. “Administrative Rules”** means the program administrative rules developed by the Portland Housing Bureau and approved through City Council which set forth program requirements, processes, and procedures, and are filed through the City’s publically available Portland Policy Documents (PPD).
- B. “Affordable housing.”** The term “affordable housing”, “affordable rental housing” or “housing affordable to rental households” means that the rent is structured so that the targeted tenant population pays no more than 30 percent of their gross household income for rent and utilities. The targeted tenant populations referred to in this section include households up to 80 percent of MFI.
- C. "Associated Housing Costs."** include, but are not limited to, fees or utility or service charges, means the compensation or fees paid or charged, usually periodically, for the use of any property, land, buildings, or equipment. For purposes of this Chapter, housing costs include the basic rent charge and any periodic or monthly fees for other services paid to the Landlord by the Tenant, but do not include utility charges that are based on usage and that the Tenant has agreed in the Rental Agreement to pay, unless the obligation to pay those charges is itself a change in the terms of the Rental Agreement.
- D. “City Subsidy.”** Locally controlled public funds administered by PDC, PHB, or other City bureau or agency, allocated for the purpose of creating or preserving affordable rental housing to households below 80 percent of MFI. City subsidies may be provided to developers through direct financial assistance such as low interest or deferred loans, grants, equity gap investments, credit enhancements or loan guarantees, or other mechanisms.
- E. “City Subsidy Projects.”** Privately owned properties of five or more units which receive a City Subsidy after the effective date of Title 30.01 through programs

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designed to create or preserve rental housing affordable at or below 80 percent of MFI.

- F. “Commercial Market Compatible Offer.”** A Fair Market Value purchase offer made by the City or its designee which is consistent with the terms and conditions which would be made by a buyer on the open market such that a seller negotiating with the City on such terms would not experience any significant disadvantage as compared to a market rate transaction with a private party.
- G. “Fair Market Value.”** The amount of money in cash that real property would bring in the open market if it were offered for sale by one who desired, but was not obligated to sell, and was bought by one willing but not obliged to buy. It is the actual value of the property on the date when a City offer pursuant to Title 30.01.050 is made. As may be further refined by PHB through its Administrative Procedures developed in reference to the Uniform Standards of Professional Appraisal Practice, the Oregon Uniform Trial Instructions, and relevant case law, Fair Market Value is based on the best and highest use of the property, which may be greater than the use being made of the property by the current owner. However, Fair Market Value does not include speculative value, or possible value based on future expenditures and improvements, or potential changes in applicable zoning regulations or laws, which are not reasonably probable. Fair Market Value includes assessment of environmental, structural or mechanical information derived from inspections or other due diligence activities.
- H. “Federal Preservation Projects.”** Properties having project-based rental assistance contracts for some or all of the units (such as Section 8 and Project Rental Assistance Contracts) including those developed under a variety of HUD mortgage assistance and interest rate reduction programs. Federal preservation projects include properties with loans, contracts, or insurance under the following federal subsidy programs: section 221(d)(4) with project-based Section 8; Section 202; Section 236(J)(1); Section 221(D)(3) BMIR; Section 221(D)(3) MIR; Section 811; Project based Section 8 contracts administered through HUD, Oregon Housing and Community Services, or the Housing Authority of Portland; Project Rental Assistance Contracts (PRAC); LIHPRHA capital grant program; and Section 241(f) preservation grant. An updated list of all known Federal Preservation Projects will be maintained and available upon request to the public.
- I. “HUD.”** The United States Department of Housing and Urban Development
- J. “Involuntary Displacement.”** Tenants of Federal Preservation Projects are considered to be involuntarily displaced if:

  - 1.** They are served a notice to vacate the property for reasons other than just cause as defined herein; or

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2. They are not offered a one year lease under their tenant based voucher by the property owner; or
  3. They are offered a one year lease under their tenant based voucher, but are required to pay as rent and utilities an amount greater than the tenant contribution to rent (and utilities) in effect under the project-based Section 8 contract, and they then choose to move from the property rather than enter into a lease under the voucher. This form of displacement is referred to as “economic displacement.”
- K. “Just Cause Eviction.”** Evictions for serious or repeated violations of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State or local law, or other good cause.
- L. “Local Preservation Projects.”** Properties with 10 or more rental units which received financial assistance (from the programs listed below), to create or preserve housing serving households below 80 percent of MFI since January 1, 1988 and through the effective date of Title 30.01, which have affordability restrictions that are still in force as of the effective date of Title 30.01. Financial assistance programs include subsidies from the City of Portland through the Portland Development Commission (Rental Housing Development Loan Program, Investor Rehabilitation Loan Program, Rental Rehabilitation Loan Program, or Downtown Housing Preservation Program), and/or from the State of Oregon Housing and Community Services Department (Housing Development Grant Program, Oregon Affordable Housing Tax Credit Program, and the former Oregon Lenders Tax Credit Program, Risk Sharing Bond program, Elderly and Disabled Bond Program), and/or which have received bond financing issued by the Housing Authority of Portland or the Portland Development Commission. An updated list of all known Local Preservation Projects will be maintained and available upon request to the public.
- M. “Low Income.”** Low income individuals, households or tenants are those with a gross household income below 50 percent of MFI.
- N. “Mass shelter.”** A building that contains one or more open sleeping areas or is divided only by non-permanent partitions and is furnished with beds, cots, floor mats, or bunks. Individual bedrooms are not provided. The shelter may or may not have food preparation or shower facilities. The shelter is managed by a public or non-profit agency to provide shelter, with or without a fee. Where individual bedrooms are provided, the facility is a short term shelter. See also Outdoor Shelter and Short Term Shelter.
- O. “MFI.”** Median family income for the Portland Metropolitan Statistical Area as defined by HUD as adjusted for inflation and published periodically.

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- P.** “**Moderate Income.**” Moderate income individuals, households or tenants are those with a gross household income below 80 percent of MFI.
- Q.** “**Outdoor Shelter.**” Individual shelters grouped together in an outdoor setting. Examples of individual shelters include tents, yurts, huts, cabins, vehicles or other similar accommodation that do not contain sanitary or cooking facilities, and recreational vehicles with or without cooking and sanitary facilities. The shelter is managed by a public agency or a non-profit agency, with or without a fee, and with no minimum length of stay. An outdoor shelter may or may not include buildings that have food preparation or sanitary facilities. See also Mass Shelter and Short Term Shelter.
- R.** “**Opt Out.**” An owner’s non-renewal of an available project-based Section 8 contract in a Federal Preservation Project. Owners may consider “opting out” when they contemplate conversion to open market rental housing, other housing or commercial uses, or a sale of the property.
- S.** “**PHB.**” The Portland Housing Bureau.
- T.** “**PDC.**” The Portland Development Commission
- U.** “**Preservation Process.**” The requirements contained in 30.01.050 - 30.01.070 for Federal Preservation Projects and in 30.01.080 for Local Preservation Projects respectively.
- V.** “**Qualifying Household.**” A household legally residing in a Federal Preservation Project with a gross household income at or below 50 percent of MFI.
- W.** “**Receiving Site**” means a new or existing housing development with transferred Inclusionary Housing requirements from a Sending Site.
- X.** “**Regulatory Agreement**” means a recorded agreement between the owner and PHB stating the approval and compliance criteria of a PHB program.
- Y.** “**Residential Landlord and Tenant Act**” or “**Act.**” ORS Chapter 90.
- Z.** “**Sending Site**” means a new development project which is subject to Inclusionary Housing requirements and is opting to provide affordable units off-site.
- AA.** “**Short-term shelter.**” One or more buildings that each contains one or more individual bedrooms and for which occupancy of all rooms may be arranged with no minimum length of stay. A short-term shelter facility may or may not have food preparation facilities, and shower or bath facilities may or may not be shared. The facility is managed by a public or non-profit agency that may or may not charge a fee. Examples include transitional housing and emergency shelters in which

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individual rooms are provided. Where individual bedrooms are not provided, the facility is a mass shelter. See also Mass Shelter and Outdoor Shelter.

**30.01.040 Title 30.01 Responsibilities.**

(Amended by Ordinance Nos. 186028 and 187380, effective November 13, 2015.) PHB will have primary responsibility for implementation of Title 30.01. This responsibility will include the development and administration of operating procedures, and taking any and all City actions referenced herein as may be necessary for implementation of the requirements of this Title. PDC will work with PHB to implement property acquisition responsibilities described in this Title. PDC is also expected to develop strategies to implement the 60-year affordability requirements in 30.01.090.

**30.01.050 Federal Preservation Projects - City Notice and Preservation Opportunities.**

(Replaced by Ordinance No. 174180; amended by Ordinance Nos. 186028 and 187380, effective November 13, 2015.)

- A. Owners of Federal Preservation Projects must provide the City and each building tenant with a one year's notice of a pending HUD Section 8 contract expiration. In order to facilitate the owner's knowledge of the City's interest in notification, PHB shall provide written confirmation of the City's interest in the property to each Section 8 property within the City of which PHB is aware.
- B. Owners of Federal Preservation Projects who have decided to Opt Out must provide to the City a notice of 210 days of intent to do so if the owner is opting out of a long-term contract, and 150 days if the owner is opting out of a one-year extension to a long-term contract. The notice shall specify:
  - 1. whether the owner intends to withdraw the property from the Section 8 program;
  - 2. whether the owner intends to convert the participating property to a nonparticipating use; and
  - 3. whether the owner is involved in negotiations with HUD or the Housing and Community Services Department regarding an extension of an expiring contract.
- C. Owners of Federal Preservation Projects who have decided to Opt Out must consent to reasonable inspection of the property and inspection of the owner reports on file with HUD or the State of Oregon Housing and Community Services Department. These inspections are designed to facilitate the City's ability to assess the Fair Market Value of the property and evaluate status of the tenants, viability of transfer and/or continuation of a Section 8 agreement with HUD and other pertinent information.

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- D.** To the extent allowed by HUD, owners of Federal Preservation Projects must maintain an available HUD Section 8 contract in good standing during the notice periods identified in this chapter as well as any condemnation proceeding commenced under ORS Chapter 35.
- E.** Owners of Federal Preservation Projects must refrain from taking any action, other than notifying HUD of the owner's intention to not renew the contract, that would preclude the City or its designee from succeeding to the contract or negotiating with the owner for purchase of the property during the notice periods identified in this Chapter as well as any condemnation proceeding commenced under ORS Chapter 35.
- F.** In addition to any other times, during the notice periods identified in this Chapter, the City may pursue preservation of the Federal Preservation Project through negotiation for purchase or through condemnation under ORS Chapter 35.

**30.01.060 Federal Preservation Projects - Tenant Provisions.**

(Replaced by Ordinance No. 174180; amended by Ordinance Nos. 186028 and 187380, effective November 13, 2015.)

- A.** Owners of Federal Preservation Projects who have decided to Opt Out must provide to each affected building tenant a notice of 210 days of intent to do so if the owner is opting out of a long-term contract, and 150 days if the owner is opting out of a one-year extension to a long-term contract. The notice shall specify:
  - 1.** whether the owner intends to withdraw the property from the Section 8 program;
  - 2.** whether the owner intends to convert the participating property to a nonparticipating use; and
  - 3.** whether the owner is involved in negotiations with HUD or the State of Oregon Housing and Community Services Department regarding an extension of an expiring contract
- B.** Owners of Federal Preservation Projects who have decided to Opt Out may not disturb any tenancy other than for cause defined in the contract, for a period of 180 days after expiration of the contract, if the City has paid or arranged to pay to the owner on the first day of each month, the monthly subsidy that the owner was receiving under the contract.
- C.** PHB shall identify and make available adequate financial resources for tenant relocation assistance for all tenants who experience involuntary displacement from Federal Preservation Properties. PHB shall request voluntary contributions to a

tenant relocation fund from owners of Federal Preservation Projects who have decided to Opt Out.

**30.01.070 Federal Preservation Projects - Civil Fines.**

(Replaced by Ordinance No.174180; amended by Ordinance No. 186028, effective May 15, 2013.)

- A. An owner who fails to comply with any of the requirements specified in PCC 30.01.050 A.-E., tenant notice requirements in 30.01.060 A., or PHB procedures implementing those specified provisions of this Chapter, shall pay a civil fine. The fine shall be calculated in relation to the costs and damages caused by the owner's failure to comply, up to full replacement costs of each project-based Section 8 housing unit lost. Such civil fines shall be payable into a housing replacement fund to be established and managed by the City. If the civil fine is not received within the timeframes specified in the Administrative Procedures developed by PHB, the City may commence enforcement proceedings.
- B. Any civil fines received shall be used only for creating replacement housing serving households at or below 50 percent MFI.

**30.01.080 Local Preservation Projects - Tenant and City Notice Provisions.**

(Amended by Ordinance No. 186028, effective May 15, 2013.)

- A. When the owner of a Local Preservation Project takes action which will make the affordable housing no longer affordable, whether the affordability requirements which were established under prior agreement with the City, PDC or State have expired or are still in effect, the owner must provide a notice of 90 days to the City. The notice shall meet standards developed by PHB. During the 90-day notification period, the owner may not sell or contract to sell the property, but may engage in discussions with other interested parties. Within this period, the City or its designee may make an offer to purchase or attempt to coordinate a purchase by an owner committed to maintaining affordability.
- B. Owners of Local Preservation Projects who have decided to take action described in 30.01.080 A., must provide a notice of 90 days to tenants. This shall be in addition to the City notice to be provided to the City under 30.01.080 A. During this notice period the Owner may not initiate a no-cause eviction. The notice must meet standards developed by PHB.

**30.01.085 Portland Renter Additional Protections.**

(Added by Ordinance No. 187380; amended by Ordinance Nos. 188219, 188519, 188558, 188628, 188849, 189421 and 189726, effective November 1, 2019.)

- A. In addition to the protections set forth in the Residential Landlord and Tenant Act, the following additional protections apply to Tenants that have a Rental Agreement

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for a Dwelling Unit covered by the Act. For purposes of this chapter, unless otherwise defined herein, capitalized terms have the meaning set forth in the Act.

- B.** A Landlord may terminate a Rental Agreement without a cause or for a qualifying landlord reason specified in the Act only by delivering a written notice of termination (the “Termination Notice”) to the Tenant of (a) not less than 90 days before the termination date designated in that notice as calculated under the Act; or (b) the time period designated in the Rental Agreement, whichever is longer. Not less than 45 days prior to the termination date provided in the Termination Notice, a Landlord shall pay to the Tenant, as relocation assistance, a payment (“Relocation Assistance”) in the amount that follows: \$2,900 for a studio or single room occupancy (“SRO”) Dwelling Unit, \$3,300 for a one-bedroom Dwelling Unit, \$4,200 for a two-bedroom Dwelling Unit and \$4,500 for a three-bedroom or larger Dwelling Unit. For purposes of this Subsection, a Landlord that declines to renew or replace an expiring Rental Agreement is subject to the provisions of this Subsection. The requirements of this Subsection are intended to apply per Dwelling Unit, not per individual Tenant.
- C.** As allowed by the Act, a Landlord may not increase a Tenant's Rent or Associated Housing Costs by 5 percent or more over a rolling 12-month period unless the Landlord gives notice in writing (the “Increase Notice”) to each affected Tenant: (a) at least 90 days prior to the effective date of the Rent increase; or (b) the time period designated in the Rental Agreement, whichever is longer. The Increase Notice must specify the amount of the increase, the amount of the new Rent or Associated Housing Costs and the date, as calculated under the Act, when the increase becomes effective. If, within 45 calendar days after a Tenant receives an Increase Notice indicating a Rent increase of 10 percent or more within a rolling 12-month period and a Tenant provides written notice to the Landlord of the Tenant’s request for Relocation Assistance (the “Tenant’s Notice”), then, within 31 calendar days of receiving the Tenant’s Notice, the Landlord shall pay to the Tenant Relocation Assistance in the amount that follows: \$2,900 for a studio or SRO Dwelling Unit, \$3,300 for a one-bedroom Dwelling Unit, \$4,200 for a two-bedroom Dwelling Unit and \$4,500 for a three-bedroom or larger Dwelling Unit. After the Tenant receives the Relocation Assistance from the Landlord, the Tenant shall have 6 months from the effective date of the Rent increase (the “Relocation Period”) to either: (i) pay back the Relocation Assistance and remain in the Dwelling Unit and, subject to the Act, shall be obligated to pay the increased Rent in accordance with the Increase Notice for the duration of the Tenant’s occupancy of the Dwelling Unit; or (ii) provide the Landlord with a notice to terminate the Rental Agreement in accordance with the Act (the “Tenant’s Termination Notice”). In the event that the Tenant has not repaid the Relocation Assistance to the Landlord or provided the Landlord with the Tenant’s Termination Notice on or before the expiration of the Relocation Period, the Tenant shall be in violation of this Subsection. For purposes of this Subsection, a Landlord that conditions the renewal



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or replacement of an expiring Rental Agreement on the Tenant's agreement to pay a Rent increase of 10 percent or more within a rolling 12-month period is subject to the provisions of this Subsection. For purposes of this Subsection, a Landlord that declines to renew or replace an expiring Rental Agreement on substantially the same terms except for the amount of Rent or Associated Housing Costs terminates the Rental Agreement and is subject to the provisions of this Subsection. The requirements of this Subsection are intended to apply per Dwelling Unit, not per individual Tenant. For purposes of this Subsection, a Tenant may only receive and retain Relocation Assistance once per tenancy per Dwelling Unit.

- D.** A Landlord shall include a description of a Tenant's rights and obligations and the eligible amount of Relocation Assistance under this Section 30.01.085 with each and any Termination Notice, Increase Notice, and Relocation Assistance payment.
- E.** A Landlord shall provide notice to the Portland Housing Bureau (PHB) of all payments to Tenants of Relocation Assistance within 30 days of making such payments. This Subsection shall be effective beginning May 1, 2018.
- F.** For the purposes of this Section 30.01.085, the expiration of Rent concessions specified in the Rental Agreement is not considered a substantial change to a Rental Agreement.
- G.** For the purposes of this Section 30.01.085 and determining the amount of Relocation Assistance a Landlord shall pay, a Rental Agreement for a single bedroom in a Dwelling Unit as defined by PCC 33.910 is considered a SRO Dwelling Unit.
- H.** For the purposes of this Section 30.01.085 and determining the amount of Relocation Assistance a Landlord shall pay, if a Landlord is paying relocation assistance required by the Act and Relocation Assistance required by Section 30.01.085 to the Tenant for the same Termination Notice, the Relocation Assistance required by Section 30.01.085 may be reduced by the relocation assistance required by the Act if both payments are paid at the same time and as a single payment.
- I.** The provisions of this Section 30.01.085 that pertain to Relocation Assistance do not apply to the following so long as the Landlord has submitted a required exemption application form to PHB for which PHB shall have issued an exemption acknowledgement letter, a copy of which the Landlord shall have provided to the Tenant:
  - 1.** Rental Agreements for week-to-week tenancies;
  - 2.** Tenants that occupy the same Dwelling Unit as the Landlord;

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3. Tenants that occupy one Dwelling Unit in a Duplex where the Landlord's principal residence is the second Dwelling Unit in the same Duplex;
4. Tenants that occupy an Accessory Dwelling Unit that is subject to the Act in the City of Portland so long as the owner of the Accessory Dwelling Unit lives on the site, or Tenancies where the owner occupies the Accessory Dwelling Unit and the Tenant occupies a Dwelling Unit on the site;
5. a Landlord that temporarily rents out the Landlord's principal residence during the Landlord's absence of not more than 3 years;
6. a Landlord that temporarily rents out the Landlord's principal residence during the Landlord's absence due to active duty military service;
7. a Dwelling Unit where the Landlord is terminating the Rental Agreement in order for an Immediate Family member to occupy the Dwelling Unit;
8. a Dwelling Unit regulated or certified as affordable housing by a federal, state or local government is exempt from paying Relocation Assistance for a Rent increase of 10 percent or more within a rolling 12-month period:
  - a. so long as such increase does not increase a Tenant's portion of the Rent payment by 10 percent or more within a rolling 12-month period; or
  - b. in Lease Agreements where the Rent or eligibility is periodically calculated based on the Tenant's income or other program eligibility requirements and a Rent increase is necessary due to program eligibility requirements or a change in the Tenant's income.

This exemption by Subsection 30.01.085 I.8. does not apply to private market-rate Dwelling Units with a Tenant who is the recipient of a federal, state, or local government voucher;

This exemption by Subsection 30.01.085 I.8. applies to Rent increases and does not apply to Termination Notices;
9. a Dwelling Unit that is subject to and in compliance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
10. a Dwelling Unit rendered immediately uninhabitable not due to the action or inaction of a Landlord or Tenant;

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11. a Dwelling Unit rented for less than 6 months with appropriate verification of the submission of a demolition permit prior to the Tenant renting the Dwelling Unit;
12. a Dwelling Unit where the Landlord has provided a Fixed Term Tenancy and notified the Tenant prior to occupancy, of the Landlord's intent to sell or permanently convert the Dwelling Unit to a use other than as a Dwelling Unit subject to the Act.

A Landlord that authorizes a property manager that is subject to, and manages property in accordance with ORS 696, to manage a Dwelling Unit, does not waive a Dwelling Unit exemption as a result of the collective number of Dwelling Units managed by such a property manager. For purposes of the exemptions provided in this Subsection, "Dwelling Unit" is defined by PCC 33.910, and not by ORS 90.100. For purposes of the exemptions provided in this Subsection, "Accessory Dwelling Unit" is defined by PCC 33.205. For purposes of the exemptions provided in this Subsection, "Duplex" is defined by PCC 33.910. For purposes of the exemptions provided in this Subsection, "Immediate Family" is defined by PHB in administrative rules.

- J. A Landlord that fails to comply with any of the requirements set forth in this Section 30.01.085 shall be liable to the Tenant for an amount up to 3 times the monthly Rent as well as actual damages, Relocation Assistance, reasonable attorney fees and costs (collectively, "Damages"). Any Tenant claiming to be aggrieved by a Landlord's noncompliance with the foregoing has a cause of action in any court of competent jurisdiction for Damages and such other remedies as may be appropriate.
- K. In carrying out the provisions of this Section 30.01.085, the Director of PHB, or a designee, is authorized to adopt, amend and repeal administrative rules to carry out and administer the provisions of this Section 30.01.085.

**30.01.086 Evaluation of Applicants for Dwelling Units.**

(Added by Ordinance No. 189580; amended by Ordinance Nos. 189714 and 190063, effective August 21, 2020.)

**A. Applicability.**

In addition to the protections set forth in the Oregon Residential Landlord and Tenant Act ("Act") and in Sections 30.01.085 and 30.01.087, the following additional Tenant protections regarding Screening Criteria apply to Rental Agreements for a Dwelling Unit covered by the Act. For purposes of this Section, unless otherwise defined in this Section or elsewhere in Chapter 30, capitalized terms have the meaning set forth in the Act.

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In changing some terms from the Fair Housing Act, such as the term “Disability,” the City preserves the meaning of the Fair Housing Act while utilizing updated terminology that aligns with the City’s values.

**B. Definitions.** For purposes of this chapter, unless otherwise defined in this subsection, capitalized terms have the meaning set forth in the Act.

1. **“Accessible Dwelling Unit”** means a Dwelling Unit that qualifies as a “Type A Unit” pursuant to the Oregon Structural Building Code and ICC A117.1.
2. **“Accommodation”** means a reasonable accommodation requested pursuant to the Fair Housing Act, as amended in 1988 (42 U.S.C. § 3601) et seq. (“Fair Housing Act”), at 24 CFR § 100.204.
3. **“Applicant”** means a person applying to reside in a Dwelling Unit. When there are multiple persons who will reside in common within a Dwelling Unit, Applicant shall refer in common to those members of the household who intend to contribute financially to payment of the Rent and to sign the lease or Rental Agreement.
4. **“Dwelling Unit”** has the meaning given in ORS 90.100, as amended from time to time.
5. **“Disability”** has the meaning given to “handicap” as defined in the Fair Housing Act, 24 C.F.R § 100.204, as amended from time to time.
6. **“Mobility Disability”** or **“Mobility Disabled,”** with respect to a person, means a Disability that causes an ongoing limitation of independent, purposeful, physical movement of the body or one or more extremities and requires a modifiable living space because of, but not limited to, the need for an assistive mobility device.
7. **“Modification”** means a reasonable modification requested pursuant to the Fair Housing Act, 24 C.F.R § 100.203, pertaining to the physical characteristics of a Dwelling Unit.
8. **“Multnomah County Coordinated Access System”** means the system established by Multnomah County, Home Forward, the Joint Office of Homeless Services, and the City of Portland, and community partners to coordinate the referral and prioritization of high priority applicants for available Dwelling Units regulated as affordable housing by a federal, state or local government.

9. **“Rules of Residency”** means an agreement that a Landlord (as defined in the Act) may require prospective Tenants of the Landlord’s Dwelling Unit to acknowledge and sign that describes rules of conduct, and the rights and obligations of all adults residing in a Dwelling Unit. The Rules of Residency may be separate from or incorporated into a Rental Agreement and must comply with ORS 90.262.
10. **“Screening Criteria”** means a written statement of any factors a Landlord considers in deciding whether to accept or reject an Applicant and any qualifications required for acceptance. “Screening or admission criteria” includes, but is not limited to, the rental history, character references, public records, criminal records, credit reports, credit references and incomes or resources of the Applicant.
11. **“Supplemental Evidence”** means any written information submitted by the Applicant in addition to that provided on the Landlord’s form application that the Applicant believes to be relevant to the Applicant’s predicted performance as a Tenant.

**C. Tenant Application Process; Generally.**

1. Notice of Dwelling Unit Availability; Notice Content.
  - a. If a Landlord advertises a Dwelling Unit’s availability, the Landlord must publish notices for rental of the available Dwelling Unit at least 72 hours prior to the start of the date and time the Landlord will begin accepting applications (“Open Application Period”). The notice must specify the following:
    - (1) When the Landlord will begin to accept applications;
    - (2) A description of the factors the Landlord will consider in evaluating Applicants if the Landlord intends to charge a screening fee; and
    - (3) Whether the available unit is an Accessible Dwelling Unit.
  - b. The Landlord’s Notice may incorporate this information or may provide an address, website address, internet link or other written method of communicating this information to prospective Tenants.
2. Order of Processing Applications.
  - a. Applications Received in Response to an Advertised Notice.

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- (1) At the start of the Open Application Period, a Landlord must digitally or manually record the date and time the Landlord received each complete application.
  - (2) With regard to any applications received earlier than the Open Application Period, the Landlord must digitally or manually record the date and time of such complete applications as 8 hours after the start of the Open Application Period.
  - (3) A Landlord may simultaneously process multiple applications but must accept, conditionally accept, or deny Applicants in order of receipt.
  - (4) A Landlord owning Dwelling Units within the City of Portland, may refuse to process the application of an Applicant who has verifiable repeated Rental Agreement violations with this Landlord if the most recent violation occurred within 365 days before the Applicant's submission date.
  - (5) A Landlord may refuse to process an application that is materially incomplete, that fails to include information concerning an Applicant's identification, income, or upon which an Applicant has intentionally withheld or misrepresented required information.
  - (6) Within 5 business days of receiving a request from an Applicant, a Landlord must provide the Applicant with a record of the date and time the Landlord received the complete Application.
- b.** Applications Processed from a Waitlist.
- (1) If a Landlord maintains a waitlist for filling vacancies instead of advertising notice of vacancies, the Landlord must add names to the waitlist in the order of receipt.
  - (2) When members of a waitlist apply for a vacancy, a Landlord may simultaneously process multiple applications but must accept, conditionally accept, or deny Applicants in order of receipt of a completed application.
- c.** Applications for Accessible Dwelling Units.



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- D. General Screening Process.** Landlords must apply the General Screening Process described in this Subsection D. but may screen Applicants using additional Screening Criteria. If applying additional Screening Criteria, the Landlord must: 1) use a Screening Criteria no more prohibitive to the Tenant than the low- barrier criteria (“Low-Barrier Criteria”) described in Subsection E.; or 2) use a Screening Criteria of the Landlord’s choosing (“Landlord’s Screening Criteria”); however, when using the Landlord’s Screening Criteria, a Landlord must conduct an individual assessment (“Individual Assessment”) in accordance with the requirements of Subsection F, before denying an Applicant.

A Landlord must comply with the following General Screening Process:

1. Applicant Identification. A Landlord may not reject an application as incomplete because an Applicant or member of the Applicant’s household does not produce a social security number or prove lawful presence in the U.S. A Landlord may not inquire about the immigration status of a member of the Applicant’s household or require proof of their lawful presence in the U.S. A Landlord must accept any of the following, or a combination thereof, to verify the name, date of birth and photo of the Applicant:
  - a. Evidence of Social Security Number (SSN Card);
  - b. Valid Permanent Resident Alien Registration Receipt Card;
  - c. Immigrant Visa;
  - d. Individual Tax Payer Identification Number (ITIN);
  - e. Non-immigrant visa;
  - f. Any government-issued identification regardless of expiration date; or
  - g. Any non-governmental identification or combination of identifications that would permit a reasonable verification of identity.
2. Financial Responsibility of Applicant. When there are multiple persons who will reside in common within a Dwelling Unit, the persons may choose which adults will be the Applicants financially responsible for the Dwelling Unit and which will be the Tenants with no financial responsibility (“Non-Applicant Tenant”). The Landlord may screen only an Applicant for financial responsibility, and not a Non-Applicant Tenant
  - a. A Landlord may require an Applicant to demonstrate a monthly gross income of up to but not greater than 2.5 times the amount of



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the Rent for the Dwelling Unit when the monthly Rent amount is below the maximum monthly rent for a household earning no more than 80 percent of the median household income as published annually by the Portland Housing Bureau.

- b.** A Landlord may require an Applicant to demonstrate a monthly gross income of up to, but not greater than 2 times the amount of the Rent for the Dwelling Unit when the monthly Rent amount is at or above the maximum monthly rent for a household earning no more than 80 percent of the median household income as published annually by the Portland Housing Bureau.
- c.** For the purposes of this subsection, a Landlord’s evaluation of an Applicant’s income to Rent ratio must:

  - (1)** Include all income sources of an Applicant, including, but not limited to, wages, rent assistance (non-governmental only), and monetary public benefits. The Landlord may also choose to consider verifiable friend or family assistance;
  - (2)** Calculate based on a rental amount that is reduced by the amount of any local, state, or federal government rent voucher or housing subsidy available to the Applicant; and
  - (3)** Be based on the cumulative financial resources of all Applicants.
- d.** If an Applicant does not meet the minimum income ratios as described in Subsection 2.a. and 2.b. above, a Landlord may require additional and documented security from a guarantor, or in the form of an additional Security Deposit pursuant to Subsection 30.01.087 A. The Landlord shall communicate this conditional approval to the Applicant in writing and indicate the amount of the additional security. Applicant will have no less than 48 hours hours after the communication of conditional approval to accept or decline this opportunity.
- e.** If a Landlord chooses to require additional documented security from a guarantor, the Landlord may require the guarantor to demonstrate financial capacity. If the guarantor is a friend or family member, the Landlord cannot require the guarantor to have income greater than 3 times the Rent amount. The Landlord may not require an Applicant’s guarantor agreement to exceed the term of the Rental Agreement.

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- 3.** Evaluating Adult Tenants Who are Not Applicants. A Landlord may screen an adult Non-Applicant Tenant who will reside with an Applicant in a Dwelling Unit but who is not responsible for paying the Rent, only for factors related to maintaining the property, and for conduct consistent with the health, safety, or peaceful enjoyment of the premises by other residents or the Landlord and to evaluate prospective Tenants' ability to comply with the Landlord's Rules of Residency. A Landlord may not screen a Non-Applicant Tenant for financial responsibility.
- 4.** Application Denial Generally.

  - a.** A Landlord may deny any Applicant or Non-Applicant Tenant in accordance with the requirements of Section 30.01.086 and all applicable federal, state, and local laws.
  - b.** If an Applicant qualifies for a Dwelling Unit, the Landlord may not deny that Applicant based on the denial of a Non-Applicant Tenant that the Applicant included on the application. Instead, the Landlord must allow the qualifying Applicant to accept the Dwelling Unit without the Non-Applicant Tenant.
  - c.** An Applicant's request for reasonable Modification or Accommodation for a Disability, or the nature of the Modification or Accommodation requested, may not be a factor for a Landlord's denial of an Applicant.
- 5.** Communication of Determination. Within 2 weeks after a Landlord or its screening company completes its evaluation of an Applicant, the Landlord must provide Applicant with a written communication of acceptance, conditional acceptance, or denial and in the case of a conditional acceptance or denial, describe the basis for the decision.
- 6.** Disability Related Modification Requests.

  - a.** An Applicant with a Disability that is otherwise approved through the screening process and requests a Modification may not be denied housing based solely on a Landlord's denial of a requested Modification.
  - b.** If a Landlord denies an Applicant's Modification request, the Landlord must provide the Applicant 2 successive 24-hour periods within which to request alternative Modifications.



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Criteria listed in Subsection E.1.a.-c. below, then the Landlord must apply the Individual Assessment process as described in Subsection F. In applying Low-Barrier Criteria, Landlords must comply with all applicable federal, state, and local laws.

**1.** Low-Barrier Screening Criteria. In adopting Low-Barrier Criteria, Landlords agree not to reject Applicants for:

**a.** Criminal History:

- (1)** An arrest that did not result in conviction, unless the resulting charge is pending on the date of the Application;
- (2)** Participation in or completion of a diversion or a deferral of judgment program;
- (3)** A conviction that has been judicially dismissed, expunged, voided, or invalidated;
- (4)** A conviction for a crime that is no longer illegal in the State of Oregon;
- (5)** A conviction or any other determination or adjudication issued through the juvenile justice system;
- (6)** A criminal conviction for misdemeanor offenses for which the dates of sentencing are older than 3 years from the date of the Application, excluding court-mandated prohibitions that are present at the property for which the Applicant has applied; or
- (7)** A criminal conviction for a felony offense for which the dates of sentencing are older than 7 years from the date of the Application, excluding court-mandated prohibitions that are present at the property for which the Applicant has applied.

**b.** Credit History:

- (1)** A credit score of 500 or higher;
- (2)** Insufficient credit history, unless the Applicant in bad faith withholds credit history information that might otherwise form the basis for a denial;

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- (3) Negative information provided by a consumer credit reporting agency indicating past-due unpaid obligations in amounts less than \$1,000;
- (4) Balance owed for prior rental property damage in an amount less than \$500;
- (5) A Bankruptcy filed by the Applicant that has been discharged;
- (6) A Chapter 13 Bankruptcy filed by the Applicant under an active repayment plan; or
- (7) Medical or education/vocational training debt.

**c. Rental History:**

- (1) An action to recover possession pursuant to ORS 105.105 to 105.168 if the action:
  - (a) Was dismissed or resulted in a general judgment for the Applicant before the Applicant submitted the application;
  - (b) Resulted in a general judgment against the Applicant that was entered 3 or more years before the date of the Application;
  - (c) Resulted in a general judgment against the Applicant that was entered fewer than 3 years before the date of the Application if:
    - (i) The termination of tenancy upon which the action was based was without cause (no-cause eviction); or
    - (ii) The judgment against the Applicant was a default judgment due to a failure to appear, and the Applicant presents credible evidence to the Landlord that the Applicant had already vacated the unit upon which the action was based at the time notice of the action was served.

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(d) Resulted in a judgment or court record that was subsequently set aside or sealed pursuant to procedures in state law.

(2) Any information that the Landlord obtains from a verbal or written rental reference check with the exception of defaults in Rent, 3 or more material violations of a Rental Agreement within one year prior to the date of the Application that resulted in notices issued to the Tenant, outstanding balance due to the Landlord, or lease violations that resulted in a termination with cause; or

(3) Insufficient rental history, unless the Applicant in bad faith withholds rental history information that might otherwise form a basis for denial.

**2. Evaluation Denial; Low-Barrier.**

a. When denying an Applicant using the Low-Barrier Criteria described in this Subsection, a Landlord must provide to the Applicant a written statement of reasons for denial in accordance with ORS 90.304(1).

b. Before denying an Applicant for criminal history using the Low-Barrier Criteria described in this Subsection, a Landlord must consider Supplemental Evidence provided by the Applicant if provided at the time of application submittal.

**F. Individual Assessment.** A Landlord that applies the Landlord's Screening Criteria which is more prohibitive than the Low-Barrier Criteria as described in Subsection E. above, must conduct an Individual Assessment for any basis upon which the Landlord intends to deny an application, before issuing a denial to an Applicant.

**1. Consideration of Supplemental Evidence; Individual Assessment.** In evaluating an Applicant using the Individual Assessment, a Landlord must accept and consider all Supplemental Evidence, if any is provided with a completed application to explain, justify or negate the relevance of potentially negative information revealed by screening. In evaluating an Applicant using the Individual Assessment, the Landlord must also consider:

a. The nature and severity of the incidents that would lead to a denial;

b. The number and type of the incidents;



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- d. Tenancies where the Applicant would occupy one Dwelling Unit in a Duplex where the Landlord's principal residence is the second Dwelling Unit in the same Duplex; or
    - e. Tenancies where the Applicant would occupy an Accessory Dwelling Unit, as defined by PCC 33.205, that is subject to the Act in the City of Portland so long as the owner of the Accessory Dwelling Unit lives on the lot, or Tenancies where the owner occupies the Accessory Dwelling Unit and the Dwelling Unit the Applicant would occupy is on the lot.
  - 2. Wherever local, state, or federal funding or loan requirements for Tenant screening conflict with any portion of Section 30.01.086, the funding or loan requirements will take precedence over only those portions in conflict.
- H. Damages.** A Landlord that fails to comply with any of the requirements set forth in this Section shall be liable to the Applicant for an amount up to \$250 per violation plus actual damages, reasonable attorney fees and costs (collectively, "Damages"). Any Applicant materially harmed by a Landlord's intentional noncompliance with the foregoing has a cause of action in any court of competent jurisdiction for Damages and such other remedies as may be appropriate.
- I. Delegation of Authority.** In carrying out the provisions of this Section 30.01.086, the Director of PHB, or a designee, is authorized to adopt, amend, and repeal administrative rules to carry out and administer the provisions of this Section 30.01.086.

**30.01.087 Security Deposits; Pre-paid Rent.**

(Added by Ordinance No. 189581; amended by Ordinance Nos. 189715 and 190064, effective August 21, 2020.) In addition to the protections set forth in the Oregon Residential Landlord and Tenant Act ("Act") and in Sections 30.01.085 and 30.01.086, the following additional Tenant protections regarding Security Deposits apply to Rental Agreements for a Dwelling Unit covered by the Act. For purposes of this Section, unless otherwise defined in this Section or elsewhere in Chapter 30, capitalized terms have the meaning set forth in the Act.

**A. Amount of Security Deposit.**

- 1. If a Landlord requires, as a condition of tenancy, a Security Deposit that includes last month's Rent, a Landlord may not collect as an additional part of the Security Deposit more than an amount equal to one-half of one month's Rent.
- 2. If a Landlord does not require last month's Rent, a Landlord may not collect more than an amount equal to one month's Rent as a Security Deposit.



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3. If a Landlord conditionally approves an application subject to an Applicant's demonstration of financial capacity or to offset risk factors identified by the Applicant screening for tenancy as described in Section 30.01.086, the Landlord may require payment of an amount equal to one-half of one month's Rent as a Security Deposit in addition to the other amounts authorized in this subsection. The Landlord must allow a Tenant to pay any such additional Security Deposit in installments over a period of up to 3 months in installment amounts reasonably requested by the Tenant.

**B. Bank Deposit of Tenant Funds.**

1. Within 2 weeks following receipt of a Tenant's funds paid as a Security Deposit or for last-month's Rent, a Landlord shall deposit all of such funds into a secure financial institution account segregated from the Landlord's personal and business operating accounts. If the account is an interest-bearing account, all interest shall accrue proportionately to the benefit of the Tenant and shall be returned to the Tenant with the unused security deposit in accordance with Subsection B.2. below. If the account bears interest, the Landlord is required to pay such interest in full, minus an optional 5 percent deduction for administrative costs from such interest, to the Tenant unless it is used to cover any claims for damage. For interest bearing accounts, the Landlord must provide a receipt of the account and any interest earned at the Tenant's request, no more than once per year. The Rental Agreement must reflect the name and address of the financial institution at which the Security Deposit is deposited and whether the Security Deposit is held in an interest-bearing account.
2. A Landlord shall provide a written accounting and refund in accordance with ORS 90.300.

**C. Amounts Withheld for Repair**

1. A Landlord may only apply Security Deposit funds for the repair and replacement of those fixtures, appliances, equipment or personal property that are identified in the Rental Agreement and to which a depreciated value is attached in accordance with the depreciation schedule published on the Portland Housing Bureau website. A Landlord may provide documentation reasonably acceptable to a Tenant demonstrating why a different calculation is justified for a particular item.
2. A Landlord may claim from the Security Deposit amounts equal only to the costs reasonably necessary to repair the premises to its condition existing at the commencement of the Rental Agreement ("Commencement Date"); provided however, that a Landlord may not claim any portion of the Security Deposit for routine maintenance; for ordinary wear and tear; for

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replacement of fixtures, appliances, equipment, or personal property that failed or sustained damage due to causes other than the Tenant's acts or omissions; or for any cost that is reimbursed by a Landlord's property or comprehensive general liability insurance or by a warranty.

3. Any Landlord-provided fixtures, appliances, equipment, or personal property, the condition of which a Landlord plans to be covered by the Tenant Security Deposit, shall be itemized by description and depreciated value and incorporated into the Rental Agreement.
4. A Landlord may not apply the Tenant Security Deposit to the cost of cleaning or repair of flooring material except as expressly provided in ORS 90.300(7)(c) and only if additional cleaning or replacement is necessitated by use in excess of ordinary wear and tear and is limited to the costs of cleaning or replacement of the discrete impacted area and not for the other areas of the Dwelling Unit.
5. A Landlord may not apply the Tenant Security Deposit to the costs of interior painting of the leased premises, except to repair specific damage caused by the Tenant in excess of ordinary wear and tear, or to repaint walls that were painted by the Tenant without permission.

**D. Condition Reports**

1. Within 7 days following the Commencement Date, a Tenant may complete and submit to the Landlord a Condition Report on a form provided by the Landlord, noting the condition of all fixtures, appliances, equipment, and personal property listed in the Rental Agreement, and noting damage (the "Condition Report"). Unless the Landlord disputes the Condition Report, and the Tenant and the Landlord obtain third-party validation of the condition of the Dwelling Unit, the Tenant's Condition Report shall establish the baseline condition of the Dwelling Unit as of the Commencement Date against which the Landlord will be required to assess any Dwelling Unit repair or replacement needs identified in a Final Inspection that will result in costs that may be deducted from the Tenant Security Deposit as of termination of the Rental Agreement (the "Termination Date"). An unresolved dispute as to the condition of the Dwelling Unit as of the Commencement Date shall be resolved in favor of the Tenant. If the Tenant does not complete and submit a Condition Report to the Landlord within 7 days of the Commencement Date then the Landlord shall thereafter complete and provide to the Tenant a Condition Report including digital photographs of the premises within 17 days following the Commencement Date. The Landlord shall update the Condition Report to reflect all repairs and replacements impacting the Dwelling Unit during the

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term of the Rental Agreement and shall provide the updated Condition Report to the Tenant.

2. Within 1 week following the Termination Date a Landlord shall conduct a walk-through of the Dwelling Unit at the Tenant's option, with the Tenant or Tenant's representative, to document any damage beyond ordinary wear and tear not noted on the Condition Report (the "Final Inspection"). The Tenant, or the Tenant's representative, may choose to be present for the Final Inspection. The Landlord must give notice of the date and time of the Final Inspection at least 24 hours in advance to the Tenant.
  3. A Landlord shall prepare an itemization describing any repair and replacement in accordance with the fixture, appliances, equipment, or personal property identified in the Rental Agreement. The Landlord shall document any visual damage in excess of normal wear and tear with photographs that the Landlord shall provide to the Tenant with a written accounting in accordance with ORS 90.300 (12). To the extent that a Landlord seeks to charge labor costs greater than \$200 to a Tenant, the Landlord must provide documentation demonstrating that the labor costs are reasonable and consistent with the typical hourly rates in the metropolitan region. A Landlord may not charge for the repair of any damage or replacement of malfunctioning or damaged appliances, fixtures, equipment, or personal property noted on the Condition Report.
- E. Notice of Rights.** Contemporaneously with the delivery of the written accounting required by ORS 90.300 (12), a Landlord must also deliver to the Tenant a written notice of rights regarding Security Deposits ("Notice of Rights"). Such Notice of Rights must specify all Tenant's right to damages under this Section. The requirement in this Subsection may be met by delivering a copy of this Section to the Tenant and contact information for the nearest Legal Aid Services of Oregon, or online and physical address of the Oregon State Bar.
- F. Rent Payment History.** Within 5 business days of receiving a request from a Tenant or delivering a notice of intent to terminate a tenancy, a Landlord must provide a written accounting to the Tenant of the Tenant's Rent payment history that covers up to the prior 2 years of tenancy, as well as a fully completed Rental History Form available on the Portland Housing Bureau website. The Landlord shall also provide the Tenant with an accounting of the Security Deposit as soon as practicable but no later than within the timeframes prescribed by ORS 90.300.
- G. Damages.** A Landlord that fails to comply with any of the requirements of this Section shall be liable to the Tenant for an amount double to the amount of the Tenant's Security Deposit, plus reasonable attorney fees, and costs (collectively, "Damages"). Any Tenant aggrieved by a Landlord's noncompliance with the

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foregoing has a cause of action in any court of competent jurisdiction for Damages and such other remedies as may be appropriate.

- H. Delegation of Authority.** In carrying out the provisions of this Section 30.01.087, the Director of PHB, or a designee, is authorized to adopt, amend, and repeal administrative rules to carry out and administer the provisions of this Section 30.01.087.

**30.01.090 City Subsidy Projects - Long-Term Affordability Requirements.**

(Amended by Ordinance Nos. 186028, 187380 and 188440, effective July 8, 2017.)

- A.** City Subsidy Projects that in the future request and receive a City Subsidy from PDC, PHB or other City bureau or agency for the purpose of creating or preserving rental housing affordable to households below 80 percent of MFI, will be subject to a minimum of 60 year affordability contract requirements developed by PHB consistent with the implementing charge in Subsection 30.01.090 B. Notwithstanding the foregoing, City Subsidy Projects that receive a Rental Rehabilitation Conditional Grant will be subject to a minimum of 10 year affordability contract requirement in accordance with the Rental Rehabilitation Conditional Grant Product Guidelines.
- B.** All City Bureaus and agencies administering affordable rental housing subsidy programs will be responsible for implementing this section. As the primary agency charged by the City to negotiate and confer affordable housing subsidies, PHB will develop implementing strategies consistent with the 60 year affordability principles contained in this section, the Administrative Procedures Implementing Title 30.01 and the approved 1998/99 Consolidated Plan, Principle III (Ordinance No. 172259).

**30.01.095 Partial and Full Exemptions of System Development Charges for Affordable Housing Developments.**

(Added by Ordinance No. 183448; Amended by Ordinance Nos. 186712, 186744, 187380, 187975 and 189323, effective December 19, 2018.)

- A.** The purpose of this Section is to reduce the costs of developing permanent affordable housing by exempting system development charges for qualified affordable housing developments. This section advances a Council-recognized public policy goal to provide for a diversity of housing types to meet the needs of the citizens of the City.
- B.** The City will exempt qualified affordable housing developments from paying all or part of system development charges required by Code. The Applicant must apply for exemptions under this Section prior to the date the City issues the permit on the new development. Where new development consists of only part of one or more of the uses described in this Section, only that portion of the development that

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qualifies under this Section is eligible for an exemption. The balance of the new development that does not qualify for any exemption under this Section is subject to system development charges to the full extent authorized by Code or general ordinance. The Applicant has the burden to prove entitlement to exemptions so requested.

- C.** The City shall calculate exemptions in the manner authorized for calculating system development charges for rented and owner-occupied residential properties. Non-residential properties or the non-residential portion of mixed-use developments are not eligible for exemptions provided by this Section. Exemptions are applicable to the portions of residential properties that are directly used in providing housing for its low-income residents such as on-site manager units and shared space including but not limited to restrooms, community rooms and laundry facilities.
- D.** To obtain the exemption, the applicant must present to the City, at the time of Application, documentation from PHB that the development qualifies for the exemption pursuant to this Chapter. Applicant must also pay an administration fee per unit on rental and/or owner-occupied units as determined by PHB.
- E.** The City shall require the recording of real property covenants in the deed records for properties receiving exemptions under this Section in order to ensure compliance, or to provide remedies for failure to restrict units, or both. Deed restrictions may be used by PHB in order to restrict sale prices and rents charged for exempt units, or to provide remedies for failure to restrict units, or both.
- F.** Applicants shall meet the following affordable housing qualifications to be exempt from paying all or a portion of system development charges based on the type of housing provided:

  - 1.** Rental Units.

    - a.** For purposes of this Section, "affordable" for rental housing means that the rent and expenses associated with occupancy such as utilities or fees, does not exceed 30 percent of the gross household income at the level of the rent restrictions.
    - b.** The units receiving an exemption shall be affordable to households earning 60 percent or less of MFI at time of occupancy and shall be leased, rented or made available on a continuous basis to persons or households whose incomes are 60 percent or less of MFI, as adjusted by household size and as determined by HUD for the Portland Metropolitan Area, except as provided for below. Such units shall remain affordable for a period of 60 years.



exemption application, or the owner of the property wants to remove the affordability covenants of Subsection 30.01.095 F., the City shall terminate the exemption and make due and payable all previously exempt portions of system development charges based on rates in effect on the date of the submittal of a complete building permit application, plus accrued interest from the date of the issuance of the building permit to the date of the termination of the exemption calculated with the interim interest rate in effect on the date of the termination of the exemption as set by general ordinance pursuant to Section 17.12.140, and a processing fee of \$250 due to each City bureau exempting system development charges and to PHB as the administrator. The City may collect reinstated system development charges, processing fees, carrying charges and the actual costs of collections by recording a property lien pursuant to Title 22.

**30.01.096 Partial and Full Exemptions of System Development Charges for Mass Shelters, Outdoor Shelters and Short-Term Shelters.**

(Added by Ordinance No. 189323; amended by Ordinance No. 190381, effective April 30, 2021.)

- A. The purpose of this Section is to reduce the costs of developing permanent mass shelters, outdoor shelters and short-term shelters by exempting system development charges for qualified developments. This section advances a Council-recognized public policy goal of providing a continuum of safe and affordable housing opportunities including transitional shelters, emergency shelters, and campgrounds/rest areas to meet the needs of Portland residents.
- B. The City will exempt qualified mass shelter, outdoor shelter and short-term shelter developments from paying all or part of system development charges required by Code. The applicant must apply for exemptions under this Section prior to the date the City issues the permit on the new development. Where new development consists of only part of one or more of the uses described in this Section, only that portion of the development that qualifies under this Section is eligible for an exemption. The balance of the new development that does not qualify for any exemption under this Section is subject to system development charges to the full extent authorized by Code or general ordinance. The applicant has the burden to prove entitlement to exemptions so requested.
- C. The City shall calculate exemptions in the manner authorized for calculating system development charges. Exemptions are applicable to the portions of mass shelter, outdoor shelter and short-term shelter projects that are directly used in providing shelter and services for their residents such as on-site manager facilities and shared space including but not limited to restrooms, kitchens, community rooms, social service facilities, and laundry facilities.
- D. To obtain the exemption, the applicant must present to the City, at the time of application, documentation from the Joint Office of Homeless Services, or other

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designated agency, that the development qualifies for the exemption pursuant to this Chapter.

- E.** The applicant must provide permit drawings that clearly note the exemption, if granted, in order to ensure compliance. Alternatively, the drawings must provide remedies for failure to comply that are acceptable to the City. Permit drawings must state the following, “This project received SDC exemptions for mass shelters, outdoor shelter or short-term shelter. The exemptions only apply to the mass shelter, outdoor shelter or short-term shelter development and associated facilities including social services. If a future tenant improvement or change of occupancy creates a use that is not a mass shelter, outdoor shelter or short-term shelter or associated service, system development charges will be assessed for the new use. It is the permittee’s responsibility to maintain proper documentation of the continued mass shelter, outdoor shelter or short-term shelter use.”

**30.01.100 Compliance and Enforcement.**

(Amended by Ordinance No. 186028, effective May 15, 2013.)

- A.** PHB shall develop and implement procedures to enforce the provisions of this code. Such procedures should include, where feasible, record notice of the applicability of this code to affected properties, filing a lien to enforce the provisions of this code, and developing civil penalties or other enforcement provisions necessary or appropriate to enforce this code.
- B.** The City Attorney’s Office may enforce the provisions of this code on behalf of the City in any court of competent jurisdiction or City administrative body.

**30.01.110 No Restriction of Powers of Eminent Domain; Severability.**

- A.** This Chapter shall not be construed to restrict the City’s existing authority to exercise powers of eminent domain through condemnation as outlined in state law.
- B.** If any part or provision of this Chapter, or application thereof to any person or circumstance, is held invalid, the remainder of this Chapter and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

**30.01.120 Inclusionary Housing.**

(Added by Ordinance No. 188163; amended by Ordinance Nos. 189071, 189213, 189302 and 190145, effective October 23, 2020.)

- A. Purpose Statement.** The purposes of the Inclusionary Housing (“IH”) Program are:



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1. Increase the number of units available to households earning 80 percent or less of MFI, with an emphasis on households earning 60 percent or less of MFI;
2. Responsibly allocate resources to increase housing opportunities for families and individuals facing the greatest disparities;
3. Create affordable housing options in high opportunity neighborhoods, those with superior access to quality schools, services, amenities and transportation; and
4. Promote a wide range of affordable housing options with regard to size, amenities and location.

**B. Administration.**

1. PHB will certify whether the applicant’s proposed development meets the standards and any administrative requirements set forth in this Section.
2. PHB may adopt, amend and repeal Administrative Rules and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Section. The Director of PHB, or a designee, has authority to make changes to the Administrative Rules as is necessary to meet current program requirements. PHB Administrative Rules will set forth clear and objective criteria for determining whether a development meets the minimum standard of affordable units (“IH Units”).
3. PHB will review the Inclusionary Housing outcomes periodically in order to determine if the IH Program options and incentives in Subsection 30.01.120 C. are consistent with City goals and market conditions.

**C. Financial Incentives.** The following financial incentives are provided for the respective options of IH Program compliance:

1. When the proposed development will include 20 percent of the units or total number of bedrooms configured into IH Units at or below 80 percent MFI, or for developments outside of the Central City Plan District, 15 percent of the units or total bedrooms configured into IH units at or below 80 percent MFI for applications filed on or before December 31, 2021:
  - a. Ten-year property tax exemption in accordance with City Code Chapter 3.103 for the IH Units. If the development is in the Central City Plan district, as designated in City Code Chapter 33.510, and has a built or base FAR of 5:1 or greater the tax exemption applies to all residential units; and



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4. The owner or a representative shall submit annual documentation of tenant income and rents for the IH Units to PHB;
  5. The City may inspect the IH Units for fire, life and safety hazards and for compliance with IH Program requirements and may inspect files documenting tenant income and rents of the IH Units; and
  6. Subsequent failure to meet the requirements of the IH Program previously determined at the time the permit is reviewed will result in a penalty equal to the amount of the current fee-in-lieu calculation plus accrued interest, and could result in legal action if unpaid.
  7. When the IH Units are configured based on a percentage of the total number of bedrooms within the proposed development, the IH Units must be provided in 2 or more bedrooms per unit.
- E.** To the extent that a financial incentive as set forth in this Section is not available to a development that otherwise complies with City Code Chapter 33.245, the IH Program will not be applicable to the development. If the IH Program is not applicable to the development, PHB will provide a letter certifying that the development is not subject to any IH Program requirements.
- F. Fee-In-Lieu.** When the applicant elects the fee-in-lieu option, the fee-in-lieu per gross residential and residential related square foot (GSF) of the proposed development is:

1. For developments in zones outside the Central City Plan District

<b>Fee per GSF on or before December 31, 2020</b>
\$19
<b>Fee per GSF after December 31, 2020</b>
\$23

2. For developments in zones within the Central City Plan District

<b>Fee per GSF</b>
\$27

3. For Bonus FAR in non-residential developments

<b>Fee Schedule for Bonus FAR for non-residential occupancy/use</b>
\$24 per square foot of Bonus FAR

**30.01.130 Manufactured Dwelling Park Affordable Housing Density Bonus.**  
(Added by Ordinance No. 189783, effective December 4, 2019.)

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- A. Purpose Statement. By implementing the Manufactured Dwelling Park Affordable Housing Bonus Density Program (the “MDP Program”), the City has the following goals:
  - 1. Support the preservation of lower-cost market rate housing in manufactured dwelling parks; and
  - 2. Ensure there are a variety of housing types available to low income and otherwise vulnerable people.
- B. PHB will certify whether a manufactured dwelling park meets the affordability standards in PCC 33.120.205 F.2. The PHB Director is authorized to adopt administrative rules to enforce the affordability standards.
- C. Manufactured dwellings parks approved for the MDP Program must satisfy the following criteria:
  - 1. Manufactured dwellings shall remain affordable for a period of 99 years.
  - 2. Owners are required to sign a Regulatory Agreement to be recorded on the title to the property receiving a density bonus under the MDP Program.
  - 3. Owners shall submit annual documentation of tenant income and rents for the affordable manufactured dwellings to PHB.
  - 4. The Regulatory Agreement will authorize PHB to inspect files documenting tenant income and rents of the affordable manufactured dwellings for compliance with MDP Program requirements.
  - 5. Failure to meet the requirements of the MDP Program will result in a penalty, and could result in legal action.
- D. The Director of PHB or a designee may adopt, amend and repeal Administrative Rules, and establish procedures, and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Section. The Director of PHB, or a designee, has authority to make changes to the Administrative Rules as is necessary to meet current program requirements.

**30.01.140 Multi-Dwelling Zones Deeper Housing Affordability FAR Density Program.**  
(Added by Ordinance No. 189805, effective March 1, 2020.)

- A. **Purpose Statement.** The City intends to implement the Multi-Dwelling Zones Deeper Housing Affordability FAR Density Bonus Program (the "DHA Program") to increase the numbers of Dwelling Units available for sale or for rent to households earning incomes that fall within particular City established parameters.

**B. Administration.**

1. PHB will certify whether the applicant's proposed development meets the standards and requirements set forth in PCC 33.120.211 C.2. and this Section.
2. PHB may adopt, amend, and repeal Administrative Rules and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Section 30.01.140. The Director of PHB, or a designee, shall have the authority to modify the Administrative Rules as necessary to meet current City housing program requirements. PHB Administrative Rules will set forth clear and objective criteria to establish minimum development standards for affordable units subject to the DHA Program.

**C. Standards.** Developments approved for the DHA Program must satisfy the following criteria:

1. Dwelling units for sale shall remain affordable for a period of at least 10 years and be available to households earning 80 percent or less of area median income, and dwelling units for rent shall remain affordable for a period of 99 years and be available to households earning 60 percent or less of area median income;
2. Owners are required to sign a Regulatory Agreement that will encumber the property receiving a density bonus under the DHA Program, and will be recorded in the official records of Multnomah County, Oregon;
3. For rental Dwelling Units, the owner or a representative shall submit annual documentation of tenant income and rents to PHB;
4. The City may inspect the affordable rental Dwelling Units for fire, life, and safety hazards and for compliance with DHA Program requirements and may inspect files documenting tenant income and rents of the affordable rental Dwelling Units; and
5. Failure to meet the requirements of the DHA Program will result in a penalty, and may result in legal action.

**D. Penalties.**

1. In the event of a failure to meet the requirements of the DHA Program and the additional requirements established in the Regulatory Agreement, PHB may choose, to negotiate with the building owner to bring the building into project compliance.

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2. Should PHB and the owner not agree upon an acceptable remedy to bring the project into compliance, the owner will owe financial penalties payable to PHB as follows:

- a. For Rent Dwelling Unit Penalty. For a building with rental Dwelling Units, a penalty equal to multiplying the gross square feet of the residential and residential related portions of the Building by \$23; and

Interest. Interest on the entire unpaid penalty amount, assessed at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the date of default; and

Financial Incentive. Repayment of any financial incentives and exemptions received according to code and administrative rules including, but not limited to, system development charges, property taxes, and construction excise taxes; and

Additional Penalties. PHB may pursue any remedy available at law, or in equity, including but not limited to injunctive relief, and other remedies such as foreclosure, or receivership if the financial penalties established in this Subsection 2. are not timely paid in accordance with the timeframe prescribed by PHB or a court of competent jurisdiction.

Upon Owner's payment in full of the applicable Dwelling Unit Penalty, Interest, Financial Incentive repayment amounts due and payment of any Additional Penalties, the impacted for Sale Dwelling Unit will cease to be bound to the restrictions of the DHA Program and PHB will release the Covenant.

- b. For Sale Dwelling Unit Penalty. For for Sale Dwelling Units, repayment of the difference between the Restricted Sale Price and the assessed value as stated in the DHA Program Covenant; and

Interest. Interest on the entire unpaid Penalty amount, assessed at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the date of default; and

Financial Incentive. Repayment of any financial incentives and exemptions received according to code and administrative rules including, but not limited to, system development charges, property taxes, and construction excise taxes; and

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Additional Penalties. PHB may pursue any remedy at law, or in equity, including but not limited to injunctive relief, and other remedies such as foreclosure, or receivership if the financial penalties established in this Section are not timely paid in accordance with the timeframe prescribed by PHB or a court of competent jurisdiction.

Upon Owner's payment in full of the applicable Dwelling Unit Penalty, Interest, Financial Incentive Repayment amounts due and payment of any Additional Penalties, the impacted for Sale Dwelling Unit will cease to be bound to the restrictions of the DHA Program and PHB will release the Covenant.

**30.01.150 FAR Transfer from Existing Affordable Housing Program.**

(Added by Ordinance No. 190037, effective July 8, 2020.)

- A. Purpose Statement.** The City intends to implement the FAR Transfer from Existing Affordable Housing Program (the “Affordable Housing Transfer Program”) to promote the preservation of existing affordable housing within the City.
- B. Administration.**
1. PHB will certify whether the applicant’s existing Affordable Housing project meets the standards and requirements set forth in PCC Subsection 33.120.210 D.1. and this Section.
  2. PHB may adopt, amend, and repeal Administrative Rules and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Section 30.01.150. The Director of PHB, or a designee, shall have the authority to modify the Administrative Rules as necessary to meet current City housing program requirements. PHB Administrative Rules will set forth clear and objective criteria to establish minimum standards for affordable units subject to the Affordable Housing Transfer Program.
- C. Standards.** Affordable Housing projects approved for the Affordable Housing Transfer Program must satisfy the following criteria:
1. All of the Affordable Housing dwelling units located on a site wanting to transfer available FAR must have an existing affordability restriction related to funding provided by PHB for at least an additional 30 years from the date of application to PHB for the FAR transfer; and

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2. The Affordable Housing dwelling units must be restricted to households earning 60 percent or less of area MFI.

**30.01.160 Three-Bedroom Unit FAR Density Bonus Option Program.**

(Added by Ordinance No. 190037, effective July 8, 2020.)

- A. Purpose Statement. The City intends to implement the Three-Bedroom Unit FAR Density Bonus Option Program (the “Three-Bedroom Bonus Program”) to increase the number of family-sized dwelling units available for sale or for rent to moderate-income households.
- B. Administration.
  1. PHB will certify whether the applicant’s proposed development meets the standards and requirements set forth in PCC Subsection 33.120.211 C.3. and this Section.
  2. PHB may adopt, amend, and repeal Administrative Rules and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Section 30.01.160. The Director of PHB, or a designee, shall have the authority to modify the Administrative Rules as necessary to meet current City housing program requirements. PHB Administrative Rules will set forth clear and objective criteria to establish minimum standards for Affordable Housing units restricted under the Three-Bedroom Bonus Program.
- C. Standards. Developments approved for the Three-Bedroom Bonus Program must satisfy the following criteria:
  1. Dwelling units shall remain affordable for a period of at least 10 years and be available to households earning 100 percent or less of area median income;
  2. Owners are required to sign a covenant that will encumber the property receiving a density bonus under the Three-Bedroom Bonus Program, and will be recorded in the official records of Multnomah County, Oregon;
  3. For rental dwelling units, the owner or a representative shall submit annual documentation of tenant income and rents to PHB;
  4. The City may inspect the affordable dwelling units for fire, life, and safety hazards and for compliance with the Three-Bedroom Bonus Program requirements and may inspect files documenting tenant income and rents of the affordable rental dwelling units; and



5. Failure to meet the requirements of the Three-Bedroom Bonus Program will result in a penalty and may result in legal action.

**D. Penalties.**

1. In the event of a failure to meet the requirements of the Three-Bedroom Bonus Program and the additional requirements established in the covenant, PHB may choose to negotiate with the building owner to bring the building into compliance.
2. Should PHB and the owner not agree upon an acceptable remedy to bring the project into compliance, the owner will owe financial penalties payable to PHB as follows:

- a. **For-Rent Dwelling Unit Penalty.** For a building with rental dwelling units, a penalty equal to multiplying the gross square feet of the residential and residential-related portions of the building by \$23; and

Interest. Interest on the entire unpaid For-Rent Dwelling Unit Penalty amount, assessed at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the date of default;

Financial Incentives. Repayment of any financial incentives and exemptions received according to code and Administrative Rules including, but not limited to, system development charges, property taxes, and construction excise taxes; and

Additional Penalties. PHB may pursue any remedy available at law, or in equity, including but not limited to injunctive relief, and other remedies such as foreclosure, or receivership if the financial penalties established in this Subsection 2. are not timely paid in accordance with the timeframe prescribed by PHB or a court of competent jurisdiction.

Upon the owner's payment in full of the applicable For-Rent Dwelling Unit Penalty, Interest, Financial Incentives repayment amounts due, and payment of any Additional Penalties, the impacted building with rental dwelling units will cease to be bound to the restrictions of the Three-Bedroom Bonus Program and PHB will release the covenant.

- b. **For-Sale Dwelling Unit Penalty.** For a building with dwelling units for sale, repayment of the difference between the restricted sale price

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and the assessed value for each dwelling unit as stated in the Three-Bedroom Bonus Program Administrative Rules; and

Interest. Interest on the entire unpaid penalty amount, assessed at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the date of default;

Financial Incentive. Repayment of any financial incentives and exemptions received according to code and Administrative Rules including, but not limited to, system development charges, property taxes, and construction excise taxes; and

Additional Penalties. PHB may pursue any remedy available at law, or in equity, including but not limited to injunctive relief, and other remedies such as foreclosure, or receivership if the financial penalties established in this Section 2 are not timely paid in accordance with the timeframe prescribed by PHB or a court of competent jurisdiction.

Upon the owner's payment in full of the applicable For-Sale Dwelling Unit Penalty, Interest, Financial Incentives repayment amounts due and payment of any Additional Penalties, the impacted for-sale dwelling units will cease to be bound to the restrictions of the Three-Bedroom Bonus Program and PHB will release the covenant.

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- J.** Expiration of application. An application for a permit or registration for any proposed sign or awning will be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit or registration has been issued. The Director may grant one extension for a time not to exceed 180 days. The extension must be requested by the applicant in writing.
- K.** Delegation of Registration. The Director is authorized to establish a program that delegates registration of signs through third parties. The Director must establish the program in accordance with the procedures established in Section 32.60.020, Rulemaking.

**32.62.030 Review of Applications and Issuance of Permits.**

(Amended by Ordinance Nos. 176469 and 176955, effective October 9, 2002.)

- A.** Review of applications.
  - 1.** General. Applications for sign permits and registrations will be reviewed for compliance with the requirements of this Title. Proposals for signs and awnings that are allowed without other reviews are reviewed for compliance with the requirements of this Title. The review is a nondiscretionary administrative review. Decisions on application are made by the Director and are final. The review will be done according to general operating procedures of the Bureau of Development Services and the City.
  - 2.** Actions of the Director. Where the Director finds that a proposed sign or awning does not comply with this Title, the Director must either require revisions to the proposal, require additional reviews or deny the application.
  - 3.** Additional reviews required. Applications for permits or registration for signs that require additional reviews, or that do not comply with the provisions of this Title, may require additional review according to procedures described in Chapters 32.38 and 32.44.
- B.** Issuance of permits and registrations.
  - 1.** General. No sign permit or registration will be issued until the application is approved by the Director.
  - 2.** Electrical sign contractor. Permits for signs containing electrical components will be issued only to an appropriately licensed State of Oregon electrical contractor or the owner of the property. Lighting for awnings or indirect lighting for signs require a separate electrical permit.
  - 3.** Permits issued to property owners. Permits for signs or awnings containing electrical components will be issued to a property owner only where all

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work done under the permit will be performed by the owner or by a member of the immediate family of the owner and when the owner does not intend to sell, exchange, lease or rent the property within 6 months of final approval of the permitted work.

4. Access consent required. As a condition of permit or registration issuance, the responsible party must agree to allow access to the site for all inspections to be conducted.
5. Posting of sign permit and sticker and registration sticker.
  - a. Sign permits and stickers. A sign permit for permanent signs attached to buildings and freestanding signs must be prominently posted in a location visible from the outside of the building located closest to the location of the sign installation until such time that the sign has received final inspection and has been approved.

Permanent signs must be permanently identified with a sign sticker provided by the Director.

- b. Temporary banners, balloons, temporary fascia, temporary freestanding, and portable signs. Temporary banner, temporary balloon, temporary fascia, temporary freestanding, and portable sign registration must be identified with a registration sticker for each registration period. Stickers must be affixed to the approved banner, balloon, fascia or freestanding sign, or approved portable sign in a location that is visible from the right-of-way. Registration stickers must remain affixed and visible for the entire registration period during which the sign is visible from the right-of-way.
6. Identification. The installer of a permanent sign or permanent banner must display on the sign or banner the installer's name and date of installation.

**32.62.040 Life of Permit and Registration Limited.**

(Amended by Ordinance Nos. 176469, 188647 and 190350, effective May 7, 2021.)

- A. Sign and awning permits.
  1. Permit applications.
    - a. Initial permit application. A permit application that is inactive for a period of 180 days will be deemed abandoned. If an abandoned permit application is not reactivated within 180 days of abandonment, the permit application will be void. If a permit application is void, a new permit application is required for the subject work.



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3. Fees. When a new permit is required, a new permit application must be submitted and new fees must be paid based on the current adopted Bureau of Development Services fee schedule. The Bureau of Development Services will adopt policies for fee refunds or credits of previously submitted permits. Fees for permit extensions and reactivations may also be charged as adopted in the Bureau of Development Services fee schedule.

**B. Registration.**

1. Temporary banners. Each registration for a temporary banner is valid for a maximum of 30 days. A banner may be registered for a maximum of 6 times in a calendar year.
2. Balloon signs. Registration for temporary balloons is valid for a maximum of one week. Balloon registrations may not be extended or renewed.
3. Portable signs. Registration for portable signs is valid for either 1 or 2 years as requested by the applicant. At the end of each registration period, portable sign registration must be renewed or the sign must be removed from display. There is no limit to the number of renewals for a portable sign registration.
4. Temporary fascia or temporary freestanding signs. Registration for temporary fascia and temporary freestanding signs is valid for a maximum of 360 days. Registrations may not be extended or renewed.

**32.62.050 Suspension or Revocation.**

The Director may suspend or revoke a permit or registration issued under the provisions of this Title. The Director will inform the permit holder of the suspension or revocation in writing. Permits and registrations may be suspended or revoked when:

- A. The permit or registration is issued in error;
- B. The permit or registration is issued on the basis of incorrect information supplied by the applicant; or
- C. The permit or registration is issued in violation of any of the provisions of this Title.
- D. A registered portable sign has been the subject of multiple citations.

**CHAPTER 32.64 - INSPECTION**

**Sections:**

- 32.64.010 General.
- 32.64.020 Inspections.
- 32.64.030 Refusal of Entry.

**32.64.010 General.**

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

**32.64.020 Inspections.**

- A. Signs and awnings with permits. The Director will conduct the following inspections on signs and awnings for which a permit has been issued. The permit holder must notify the Director at the appropriate inspection phases that the work is ready for inspection. Inspections are required at the following stages of construction:
  - 1. Foundation, anchorage, attachments and other structural support of the sign, sign structure and awning.
  - 2. Electrical connections of the sign, sign lighting or awning lighting. No person may make connections of a sign, sign lighting or awning lighting to a power source until all electrical components and connections have been approved.
  - 3. Final sign installation to determine compliance with the approved plans.
- B. Registered signs. The Director will conduct random inspections to determine compliance of registered banners, balloons, temporary fascia, temporary freestanding, and portable signs with the provisions of this Title.
- C. Other inspections. The Director may conduct other inspections not specifically addressed above to determine compliance with this Title.

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- D.** Re-inspections. The Director may conduct re-inspections whenever a sign or awning is found not to be in compliance with this Title or with the issued permit or registration.

**32.64.030 Refusal of Entry.**

No person may refuse entry or access to a site of a permitted or registered sign or awning to any authorized representative of the Director who provides proper credentials and requires entry for the purpose of conducting an inspection. In addition, no person may obstruct, hamper or interfere with representatives of the Director while in the process of carrying out their official duties.



**CHAPTER 32.66 - ENFORCEMENT**

**Sections:**

- 32.66.010 Violations.
- 32.66.020 Civil Penalties and Fees.
- 32.66.030 Citations.
- 32.66.040 Stop Work Orders.
- 32.66.050 Review by the Director.

**32.66.010 Violations.**

- A.** The following constitute violations of this Title:
  - 1.** Any failure, refusal or neglect to comply with any provision of this Title;
  - 2.** Allowing or causing a condition that threatens to injure the public health or safety, or threatens to damage public or private property; or
  - 3.** Any failure, refusal or neglect to correct or remove any sign, awning, strobe light, banner or balloon that does not comply with the provisions of this Title, after being required to do so by the Director.
- B.** Each specific incident and each day of non-compliance will be considered a separate violation of this Title.

**32.66.020 Civil Penalties and Fees.**

(Amended by Ordinance Nos. 176469, 183793 and 189413, effective March 6, 2019.) A violation of this Title may result in assessment of civil penalties or enforcement fees, as provided below:

- A.** Civil penalties.
  - 1.** For each separate violation, a civil penalty of up to \$1,000 may be assessed.
  - 2.** In determining the amount of any civil penalty to be assessed, the Director will consider the following:
    - a.** The nature and extent of the responsible party's involvement in the violation;
    - b.** The benefits, economic, financial or otherwise, accruing or likely to accrue as a result of the violation;
    - c.** Whether the violation was isolated and temporary, or repeated and continuing;

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- d.** The magnitude and seriousness of the violation;
- e.** The City's cost of investigation and remedying the violation;
- f.** Any other applicable facts bearing on the nature and seriousness of the violation.

**B.** Administrative enforcement fees.

- 1.** In addition to other penalties and fines, the Director may charge a penalty in the form of a monthly enforcement fee or penalty for any violation that meets the following conditions:
  - a.** Either a citation, as described in Section 32.66.030, Citations, or a stop work order, as described in Section 32.66.040, Stop Work Orders, has been issued; and
  - b.** A response period of at least 30 days has passed since the citation or stop work order became final; and
  - c.** The violation, as described in the initial citation of violation or stop work order or any subsequent citation or stop work order, has not been corrected, inspected and approved.
- 2.** The amount of the monthly enforcement fee or penalty shall be charged as set forth in the Enforcement and Penalty Fee Schedule as approved by City Council. If the responsible party does not have all violations corrected, inspected and approved within three months from the date of the initial notice of citation or stop work order, then monthly enforcement fees or penalties will subsequently be twice the amount stated in the Enforcement Fee and Penalty Schedule as approved by City Council.
- 3.** Once the monthly enforcement fees or penalties begin, they will continue until all violations identified in the initial citation or stop work order, or any subsequent citations or stop work orders, have been corrected, inspected and approved.
- 4.** The responsible party must notify the Director when the responsible party believes that all violations listed in the initial citation or stop work order, or any subsequent citations or stop work orders, have been corrected. Upon confirmed receipt of such notice, the Director will promptly schedule an inspection of the violation and will notify the responsible party if any violations remain uncorrected.
- 5.** When a violation meets the conditions for charging an enforcement fee or penalty as described in this Section, the Director will file a statement with

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the Revenue Division that identifies the property, the amount of the monthly fee or penalty, the amount of citations fines, and the date from which the charges are to begin. The Revenue Division will then:

- a. Notify the responsible party of fines and enforcement fees and penalties;
  - b. Record a property lien in the Docket of City Liens;
  - c. Bill the responsible party monthly for the full amount of the accumulated fines and enforcement fee or penalty owing, plus additional 10 percent charges to cover the administrative costs of the Revenue Division; and
  - d. Maintain lien records until:
    - (1) The lien and all associated interest, fines, penalties, charges, and costs are paid in full; and
    - (2) The Director certifies that all violations listed in the initial and any subsequent citations or stop work orders have been corrected, inspected and approved.
- C. Portable sign penalties. In addition to other penalties and fees established in this section, where a registered or temporary portable sign has been the subject of multiple citations, the Director may either impound the sign, or revoke the registration of a sign or prohibit future portable sign registrations to the owner of the sign, or any combination of these actions. The Director may charge, in addition to any other fine, the administrative costs of impounding a portable sign.

**32.66.030 Citations.**

- A. If the Director has reasonable belief that a violation has occurred, the Director may issue a citation. The citation may be personally delivered to the responsible party, or may be delivered by Registered or Certified Mail to the responsible party. The citation will include:
1. A reference to the particular section or sections of this Title that have been or are being violated;
  2. A short and plain statement of the matters asserted or charged;
  3. A statement of the amount of the applicable penalties; and
  4. A reference to the process by which the responsible party may request review by the Director.

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- B.** The responsible party cited as violating this Title must, within 15 days of receiving the citation, pay to the City the stated penalty or request review by the Director. If, after review by the Director, the Director upholds the civil penalty, payment of the penalty must be received by the City or postmarked no later than 15 days after the review determination becomes final.

**32.66.040 Stop Work Orders.**

- A.** When any work is being in violation of this Title, the Director may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If the Director issues a stop work order, the responsible party may not resume work until such time as the Director gives specific approval in writing. The stop work order will be in writing and will include:
  - 1.** The date that the order is issued;
  - 2.** The permit or registration number, where applicable;
  - 3.** The site address, legal description or project location that is subject to the order;
  - 4.** A description of the violations that have been observed; and
  - 5.** The conditions under which the work may resume.
- B.** The stop work order will be posted by the Director at a conspicuous location at the site. In addition, a copy of the order will either be personally delivered to the responsible party, or delivered by Registered or Certified Mail to the responsible party. If the responsible party is not the property owner, a copy of the stop work order will also be sent to the property owner.
- C.** It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order.
- D.** A stop work order is effective upon posting.
- E.** When an emergency condition exists, the Director may issue a stop work order orally. The Director will then issue a written order as provided under Subsection A., above, within one working day.

**32.66.050 Review by the Director.**

- A.** If a responsible party has received a written citation or stop work order as described in this Chapter and the responsible party believes the citation or order has been issued in error, the responsible party may request that the citation or order be

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reviewed by the Director. The responsible party must submit a written request to the Director within 15 days of the date of the citation or order. The written request shall be submitted together with all evidence that supports the responsible party's request. Work subject to a stop work order may not be resumed until approved according to Section 32.66.040, Stop Work Orders. Following review, the Director will issue a written determination. The Director's determination will be served on the responsible party by regular mail.

- B.** A responsible party may appeal the Director's written determination to the Code Hearings Officer in accordance with Chapter 22.10 of Portland City Code.
- C.** Nothing in this Chapter limits the authority of the Director to initiate a code enforcement proceeding under Title 22, Hearings Officer for any violations of this Title.

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**CHAPTER 32.68 - FEES**

**Sections:**

- 32.68.010 General.
- 32.68.020 Sign Permit Fees.
- 32.68.030 Fee refunds.

**32.68.010 General.**

Before any permit or registration required by this Title may be issued, the applicant must pay a permit or registration fee to the City as specified in this Title.

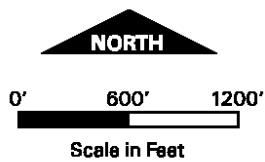
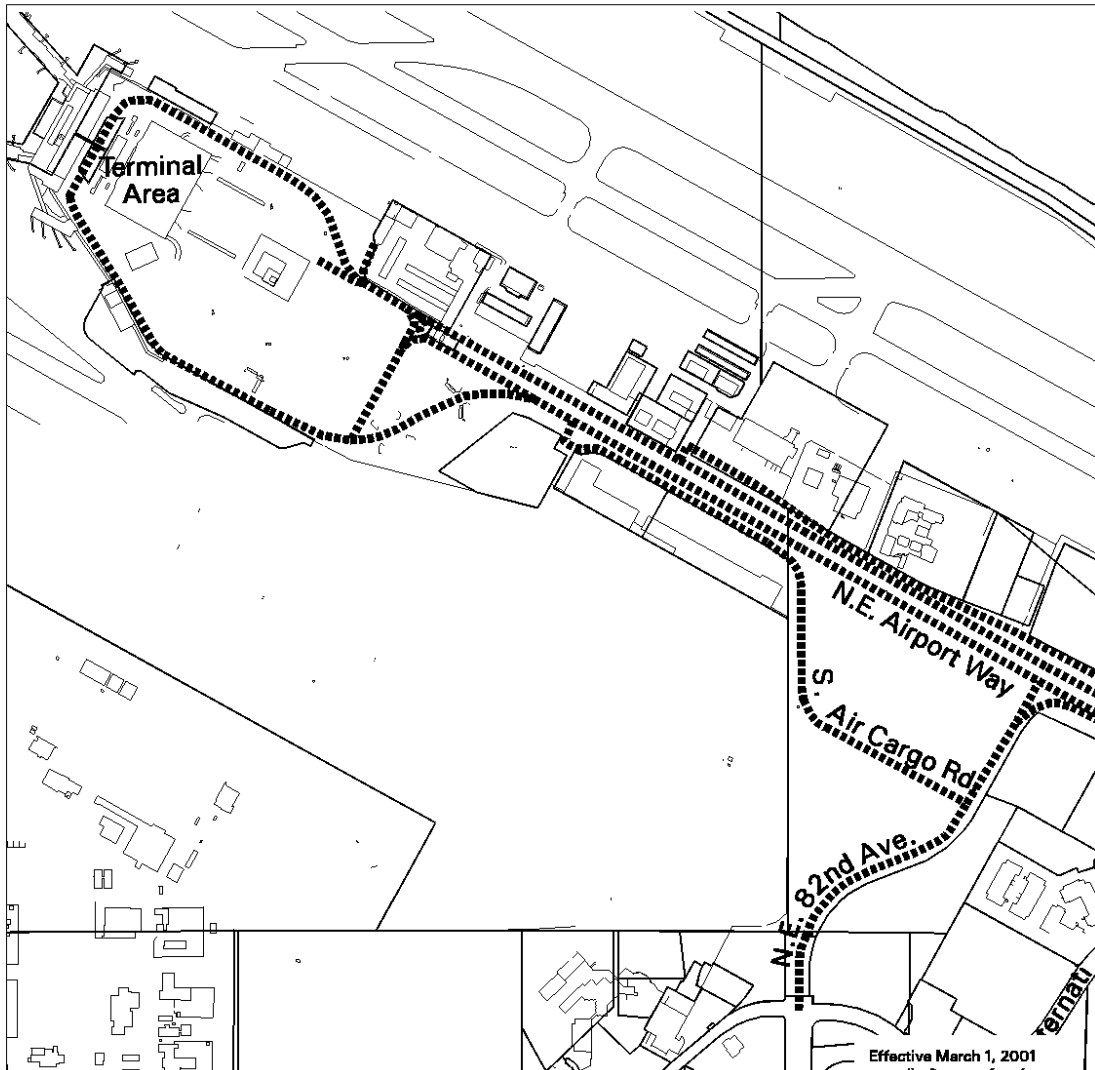
**32.68.020 Sign Permit Fees.**

All required fees are stated in the Fee Schedule adopted by City Council. Fees will be updated annually or on an as needed basis. The approved Fee Schedule will be available at the Development Services Center.

**32.68.030 Fee Refunds.**

Fee refunds may occur according to this section. Exceptions to the requirements of this section may be made by the Director.

- A.** Permit, registration and plan check fees will, as a general rule, be refunded when the services covered by the fee have not commenced, or the permit, registration or plan review fees were paid incorrectly due to an error on the part of the City. When a permit applicant requests a refund, but the City was not at fault in accepting payment, fees will be retained to cover the cost of plan review or inspections actually performed and 20 percent of the amount remaining.
- B.** State surcharge fees are only refundable when a permit was issued in error.
- C.** Requests for refunds must be made within six months of payment, permit issuance or registration issuance, whichever occurred last.
- D.** Refunds are to be made to the same person or firm who paid the fee.



Map 1

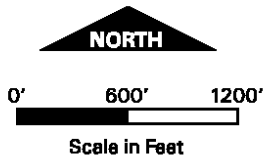
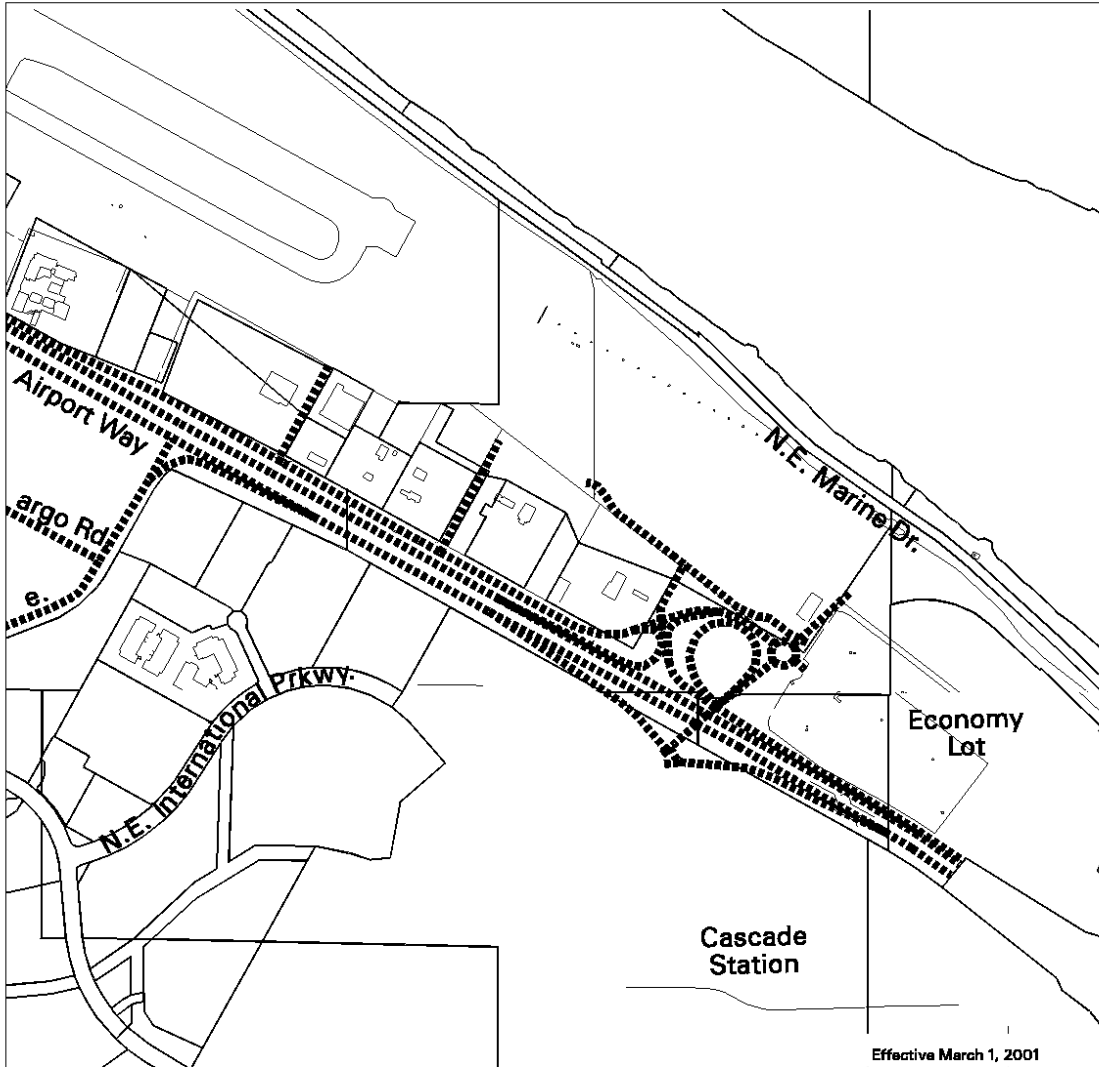
## Portland International Airport Sign Exception

----- Exception Streets

Note: Portland International Airport street right-of-way widths extend to abutting lease lines. Where no abutting lease lines exist, the right-of-way will be defined as within 15 feet of the outside curb line or edge of pavement.

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**Map 2**

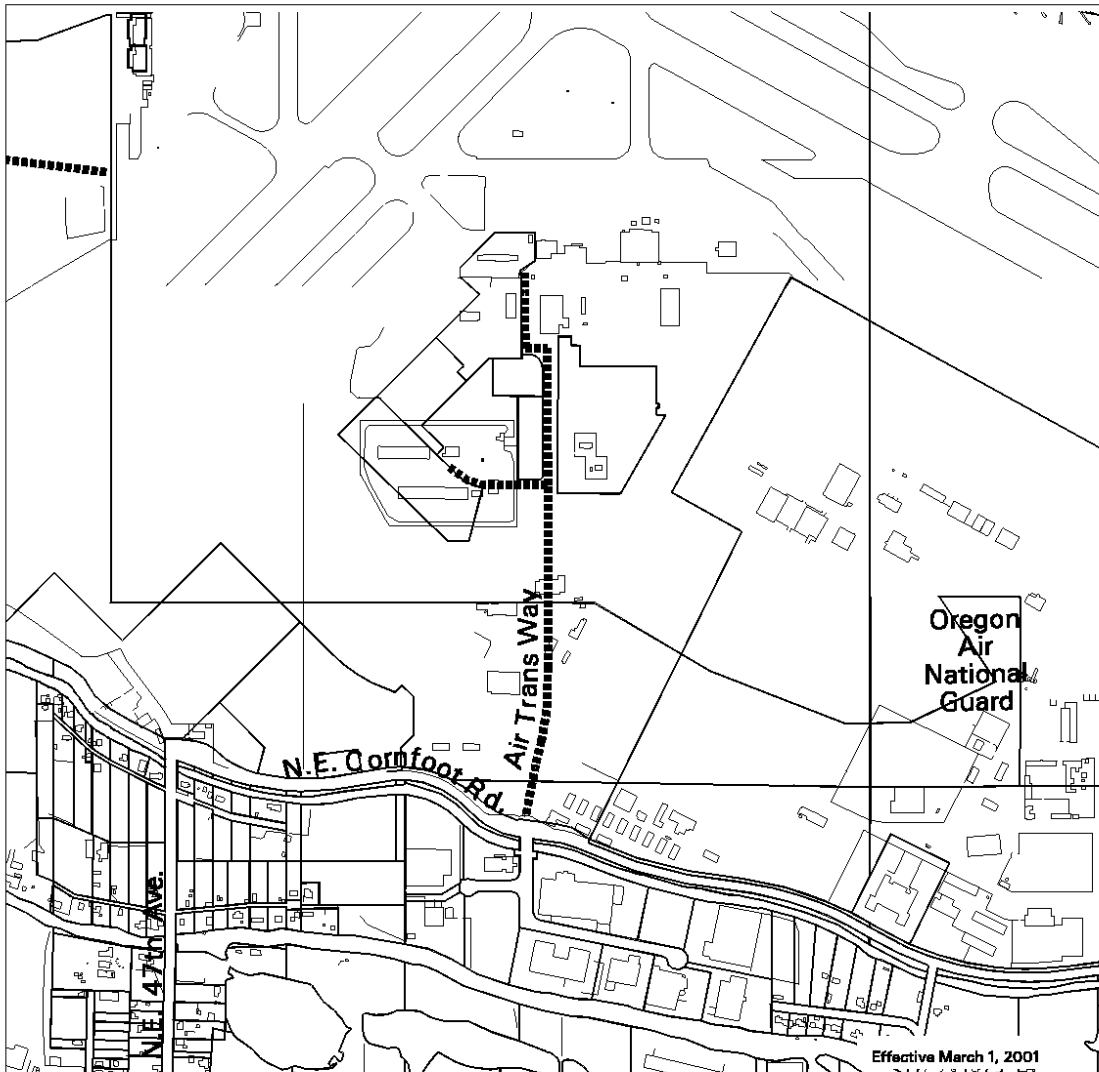
**Portland International Airport  
Sign Exception**

----- Exception Streets

Note: Portland International Airport street right-of-way widths extend to abutting lease lines. Where no abutting lease lines exist, the right-of-way will be defined as within 15 feet of the outside curb line or edge of pavement.

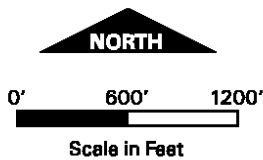
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Map 3

## Portland International Airport Sign Exception

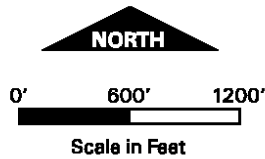
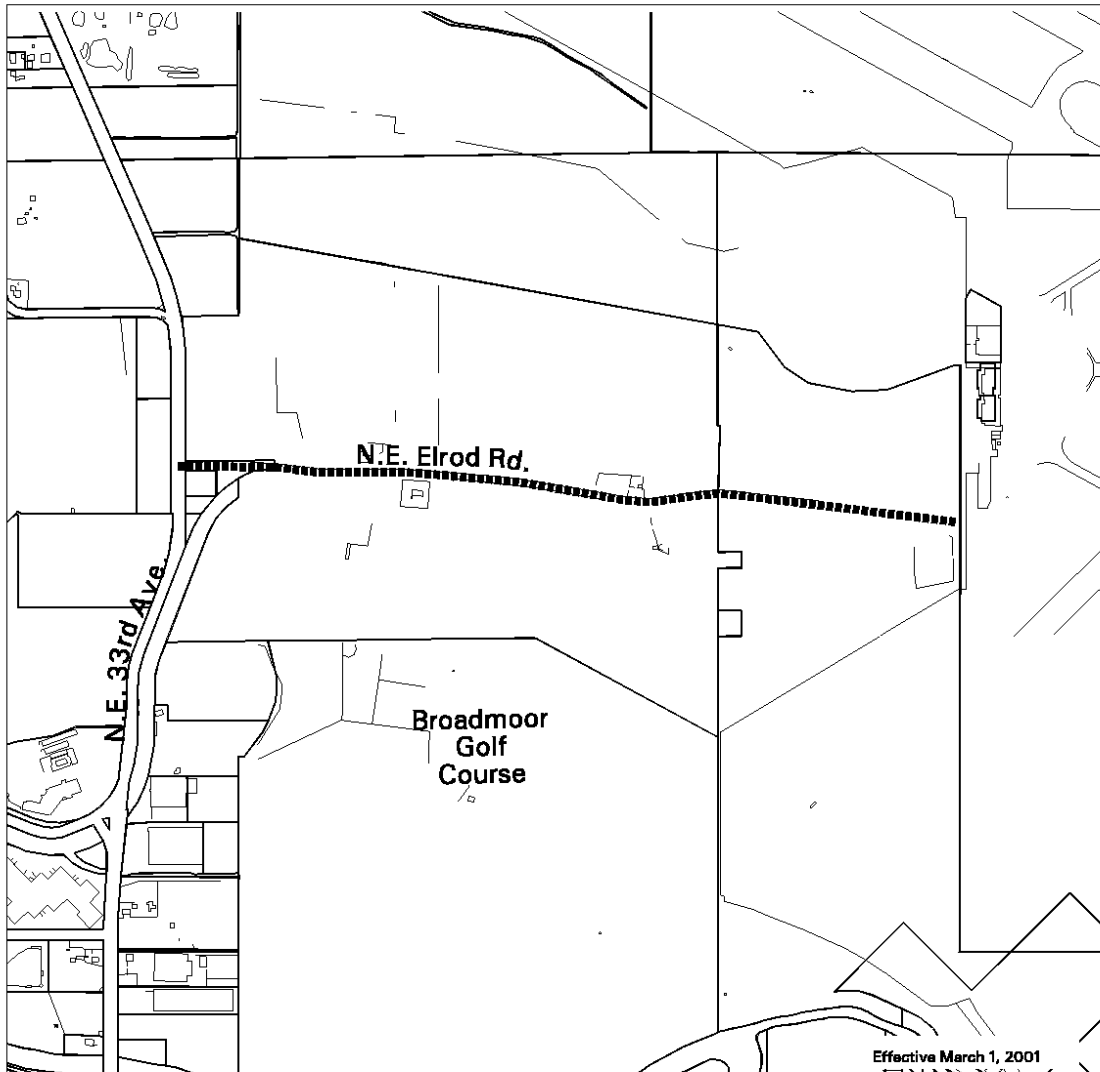


----- Exception Streets

Note: Portland International Airport street right-of-way widths extend to abutting lease lines. Where no abutting lease lines exist, the right-of-way will be defined as within 15 feet of the outside curb line or edge of pavement.

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**TITLE 32  
SIGNS AND RELATED REGULATIONS**



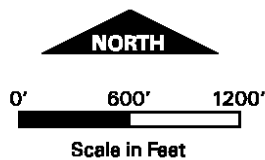
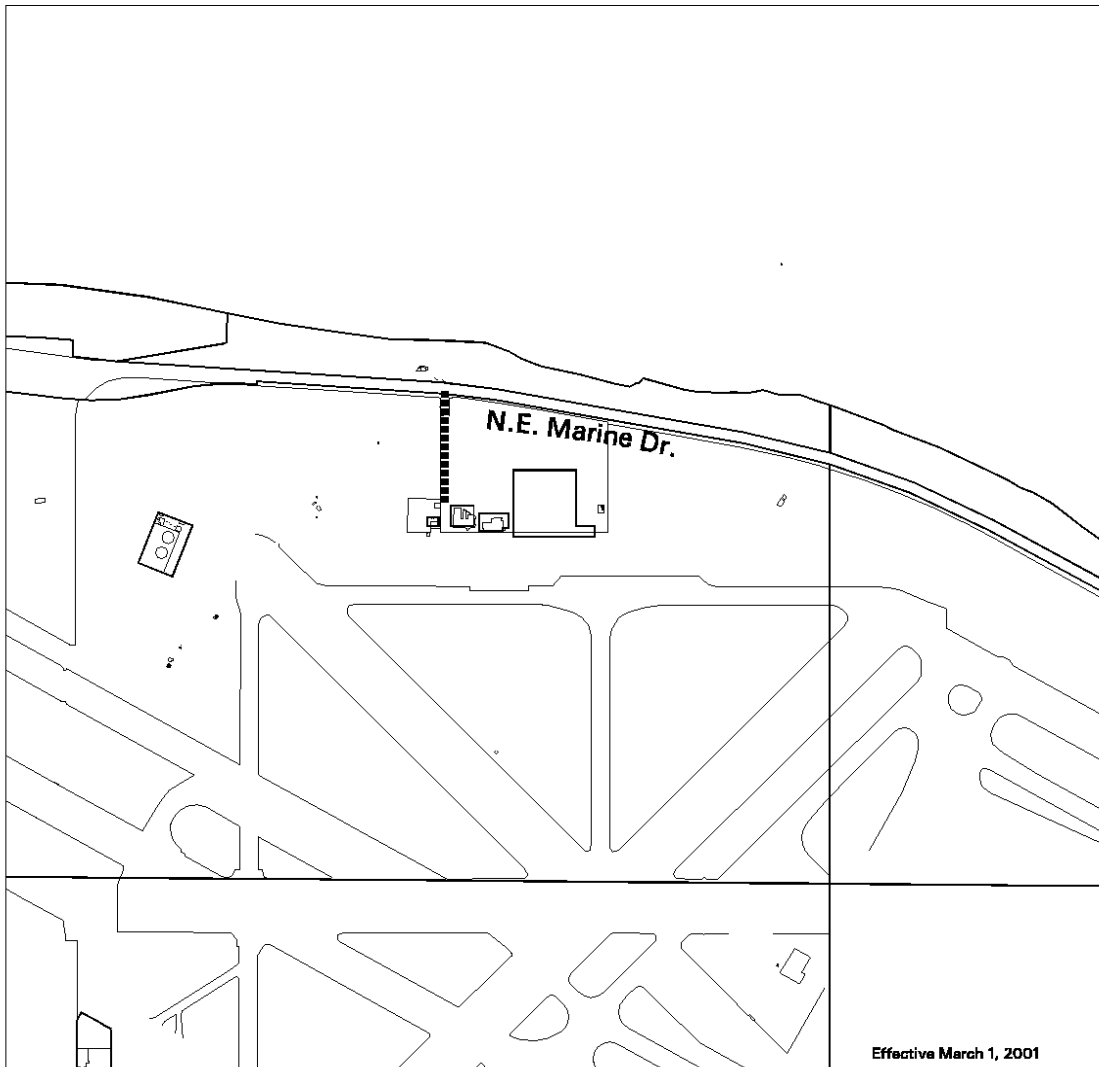
**Map 4**

**Portland International Airport  
Sign Exception**

----- Exception Streets

Note: Portland International Airport street right-of-way widths extend to abutting lease lines. Where no abutting lease lines exist, the right-of-way will be defined as within 15 feet of the outside curb line or edge of pavement.

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Map 5

## Portland International Airport Sign Exception

----- Exception Streets

Note: Portland International Airport street right-of-way widths extend to abutting lease lines. Where no abutting lease lines exist, the right-of-way will be defined as within 15 feet of the outside curb line or edge of pavement.

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