

## **UPDATE INFORMATION**

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

## **December 31, 2022 – Quarterly Update**

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

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1. Go to <http://www.portlandoregon.gov/efiles>
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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 September 30, 2022



**CODE OF THE CITY OF PORTLAND, OREGON**  
**Insertion Guide for Code Revisions**  
**Office of the City Auditor 503-823-4082**  
**4th Quarter 2022 (December 31, 2022)**

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**LEGISLATION AND ELECTIONS**

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

**2.04.160 Effective Date.**

(Amended by Ordinance Nos. 177200 and 191060, effective December 2, 2022. Corrected under authority of PCC Section 1.01.035 on January 10, 2022.)

- A. The Auditor shall submit the abstract of votes for each measure from the County Elections Office to the Council within 12 business days after receipt of the abstract from the County. The Mayor shall issue a proclamation giving the number of votes cast for or against a measure and declare the approved measure as the law on the effective date of the measure. If two or more approved measures contain conflicting provisions, the Mayor shall proclaim which is paramount, as provided by Subsection 2.04.150 C.
- B. An initiative or referendum measure adopted by the electors shall take effect upon proclamation by the Mayor unless the measure expressly provides a different effective date.

**2.04.170 Computation of Dates.**

(Repealed by Ordinance No. 177200, effective February 21, 2003.)

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**CHAPTER 2.08 - NOMINATION AND  
ELECTION OF CANDIDATES**

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

**Sections:**

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

**2.08.010 Definitions.**

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

**2.08.020 Applicability of State Law.**

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

**2.08.030 City Elections Officer.**

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

**2.08.040 City Offices.**

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

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

**2.08.080 Filing by Nominating Petition.**

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

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

**2.08.090 Withdrawal of Candidate before Certification to County.**

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

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

**2.08.100 Register of Candidates for Primary Election.**

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

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

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

**2.08.120 Post-Election Procedures for Primary and General Elections.**

(Amended by Ordinance Nos. 177200 and 191060, effective December 2, 2022.)

- A. Upon receipt of the abstract of the vote tally for nominated or elected officers and measures from the County, the City Elections Officer shall act as follows no later than 12 business days after receipt of the abstract from the County.
- B. The City Elections Officer shall:
  - 1. Prepare a register of nominations, including the name of each candidate nominated, the position for which the candidate was nominated, and the date of entry;
  - 2. Proclaim to the City Council the candidates nominated or elected and the measures approved;
  - 3. Proclaim which measure is paramount if approved measures contain conflicting provisions; and
  - 4. Prepare and deliver to each candidate a certificate of nomination or election, provided each candidate has filed financial statements relating to the



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election that the candidate is required to file under ORS 260.245 and 260.057.

- C. The certificate is primary evidence of nomination or election. No candidate shall take the oath of office before receiving a certificate of election from the City Elections Officer. The City Elections Officer shall not grant a certificate of nomination or election to any candidate until the candidate has filed the statements relating to the election that the candidate is required to file under ORS 260.245 and 260.057.
- D. A contested election and recount of votes for any City office shall be determined according to state law regulating these proceedings.
- E. Any write-in candidate for a city office who wishes a tally of votes shall file a written request for the tally with the City Elections Officer. The City Elections Officer shall forward the request to the Multnomah, Clackamas and Washington County Elections Officers. The request shall be filed with the City Elections Officer by the deadline prescribed in state law.

**2.08.130 Tie Vote.**

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

**2.08.140 Candidate Elected by Write-in Vote.**

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

**2.08.150 Withdrawal after Nomination.**

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

**2.08.160 Filling Vacancy in Nomination.**

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

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

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

**2.08.170 Recall.**

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

**CHAPTER 2.12 - REGULATION OF  
LOBBYING ENTITIES**

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

**Sections:**

- 2.12.010 Purpose.
- 2.12.020 Definitions.
- 2.12.030 Registration for Lobbying Entities.
- 2.12.040 Quarterly Reporting Requirements for Lobbying Entities.
- 2.12.050 Exemptions to Registration and Reporting Requirements for Lobbying Entities.
- 2.12.060 Declaration Required by Lobbyists
- 2.12.070 Reporting Requirements for City Officials.
- 2.12.080 Prohibited Conduct.
- 2.12.090 Verification of Reports, Registrations and Statements.
- 2.12.100 Public Nature of Reports, Registrations and Statements.
- 2.12.110 Auditor's Duties.
- 2.12.120 Penalties.
- 2.12.130 Severability.

**2.12.010 Purpose.**

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

**2.12.020 Definitions.**

(Amended by Ordinance Nos. 180205, 180620, 180917, 181204, 182389, 182671, 184046, 184882, 185304, 186028, 186176, 189078, 189556, 190644 and 191008, effective October 28, 2022.) As used in this Chapter unless the context requires otherwise:

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

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Bureau of Fire and Police Disability and Retirement, the Bureau of Human Resources, the Bureau of Technology Services, the Division of Community Safety, Prosper Portland, Office for Community Technology, and IPR – Independent Police Review.

- D.** “City official” means any City elected official; the at will staff of a City elected official; any City director as defined in this section; or appointee to the Portland Development Commission, the Planning and Sustainability Commission, the Design Commission, and the Fire and Police Disability and Retirement Board.
- E.** “Consideration” includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.
- F.** “Official action” means introduction, sponsorship, testimony, debate, voting or any other official action on any ordinance, measure, resolution, amendment, nomination, appointment, or report, or any matter, including administrative action, that may be the subject of action by the City.
- G.** “Lobby” or “Lobbying” or “Lobbies” means attempting to influence the official action of City officials. Lobbying includes time spent preparing emails and letters and preparing for oral communication with a City official. Lobbying does not include:
1. Time spent by an individual representing their own opinion to a City official.
  2. Time spent participating in a board, committee, working group, or commission created by City Council through approval of resolution or ordinance.
  3. Time spent by a City official or City employee acting in their official capacity as an official for the City.
  4. Time spent submitting a bid, responding to related information requests, and negotiating terms on a competitively bid contract or intergovernmental agreement.
  5. Oral or written communication made by a representative of a labor organization that is certified or recognized, pursuant to ORS 243.650 et seq., as the exclusive bargaining representative of employees of the City of Portland, to the extent that such communications do not deal with actual or potential ordinances that are unrelated to the collective bargaining process, or implementation or application of any collective bargaining agreement provision.

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

**2.12.030 Registration for Lobbying Entities.**

(Amended by Ordinance Nos. 180205, 181204 and 187854, effective September 1, 2016.)

- A.** Within three working days after a lobbying entity has spent 8 hours or more or estimates that it has spent cumulative 8 hours or more or has spent at least \$1,000 during any calendar quarter lobbying, the lobbying entity shall register with the City Auditor by filing with the Auditor a statement containing the following information:
1. The name, address, email, website and telephone number of the lobbying entity;
  2. A general description of the trade, business, profession or area of endeavor of the lobbying entity;

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

**2.12.040 Quarterly Reporting Requirements for Lobbying Entities.**

(Amended by Ordinance Nos. 180205, 180620, 181204, 186176 and 187854, effective September 1, 2016.)

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

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officials on behalf of the lobbying entity in the preceding calendar quarter reporting period for:

- a. Food, refreshments, travel and entertainment;
    - b. Printing, postage and telephone;
    - c. Advertising, direct mail and email;
    - d. Miscellaneous and gifts;
    - e. Compensation paid to lobbyists; and
    - f. Reimbursements to lobbyists for their expenses.
  3. The name of any City official to whom or for whose benefit, on any one occasion, the lobbying entity made an expenditure in excess of \$25 in the preceding calendar quarter for the purposes of lobbying, and the date, name of payee, purpose and amount of that expenditure.
- B.** Statements required by this section need not include amounts expended by the lobbying entity for personal living and travel expenses and office overhead, including salaries and wages paid for staff providing clerical assistance and others not engaged in lobbying activities and maintenance expenses. If the amount of any expenditure required to be included in a statement is not accurately known at the time the statement is required to be filed, an estimate of the expenditure shall be submitted in the statement and designated as an estimate. The exact amount expended for which a previous estimate was made shall be submitted in a subsequent report when the information is available.
- C.** A lobbying entity shall update any information submitted in Section 2.12.030 that has changed since registration.
- D.** A statement required by this section shall include a copy of any notice provided to a City official under ORS 244.100.
- E.** An authorized representative of the Lobbying Entity must sign the declaration required by Section 2.12.090 A. for each quarterly report.
- F.** Lobbying entities who expect to spend 8 hours or more lobbying City Officials in a calendar quarter, but do not anticipate spending over \$1,000 in the same reporting period for the purpose of lobbying may sign and file a certificate of limited expenditure provided by the Auditor's office in lieu of the financial portion of the quarterly report described in Section 2.10.040 A.2. The certificate affirms that the lobbying entity will spend less than the threshold required for quarterly financial reporting of moneys expended under Section 2.12.040 A.2. If a lobbying entity that files a certificate of limited expenditure spends over \$1,000 in a calendar

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quarter for the purpose of lobbying, the lobbying entity shall withdraw the certificate of limited expenditure and shall report moneys expended pursuant to Section 2.12.040 A.2.

- G.** A lobbying entity may amend a quarterly report without penalty if it files the amended report within 25 days after the end of the calendar quarter.

**2.12.050 Exemptions to Registration and Reporting Requirements for Lobbying Entities.**

(Amended by Ordinance Nos. 180620, 181204, 188286 and 189078, effective July 18, 2018.) In addition to the thresholds set forth in Section 2.12.030 and 2.12.040 for the registration, reporting and financial reporting of lobbying entities, Sections 2.12.030 and 2.12.040 do not apply to the following persons:

- A.** News media, or their employees or agents, that in the ordinary course of business directly or indirectly urge official action but that engage in no other activities in connection with the official action.
- B.** Any lobbying entity that satisfies all three of the following requirements:
- 1.** Complies with state public record and meeting laws or with the standards referenced in Section 3.96.020 G.;
  - 2.** Is classified as a non-profit organization, registered with the Oregon Secretary of State Corporation Division; and
  - 3.** Is formally recognized by the Office of Community & Civic Life or through City Council resolution or ordinance.

**2.12.060 Declaration Required by Lobbyists.**

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

**2.12.070 Reporting Requirements for City Officials.**

(Amended by Ordinance Nos. 180205, 180620, 187854 and 187961, effective September 1, 2016.)

- A.** City officials shall file written reports documenting any gifts, meals or entertainment in excess of \$25 received from a lobbying entity, regardless of the entity's registration status, or any person authorized to lobby on the lobbying entity's behalf. Such reports shall include:
- 1.** Name of lobbying entity, and if applicable, name of lobbyist;
  - 2.** Subject of lobbying;



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3. Value of gift, meal or entertainment; and
  4. Date of receipt.
- B.** City officials shall file written reports after a lobbyist or lobbying entity, regardless of the entity's registration status, has agreed to make a donation of personal or real property to the City. Such reports shall include:
1. Name of lobbying entity, and if applicable, name of lobbyist;
  2. Gift or donation requested;
  3. Purpose of donation; and
  4. Date of request.
- C.** The reports, if any, required by subsections 2.12.070 A. and B. shall be filed with the City Auditor 15 days after the end of the calendar quarter. City officials, other than elected officials, are not required to file reports with the Auditor if the amount of the gift, meal or entertainment is less than \$25 or if no gifts or donations have been requested in the calendar quarter.
- D.** City Elected officials and City directors shall post their calendars of activities that reflect official City business 15 days after the end of the calendar quarter for the previous calendar quarter, unless an elected official or City director determines that such posting poses a safety threat.
1. Unless otherwise exempted, calendars required by this Section shall note the date and length of scheduled official business that includes other City Elected officials, City directors or outside parties. Calendar items must list primary participants or organizations in attendance.
  2. Elected officials' and City directors' quarterly calendars required by this Section shall be retained in accordance with City Administrative Rules and posted publicly on the originating office's website for a period of at least one calendar year.
- E.** A City Official may amend a quarterly report without penalty if he or she files the amended report within 25 days after the end of the calendar quarter.

**2.12.080 Prohibited Conduct.**

(Amended by Ordinance No. 187854, effective September 1, 2016.)

- A.** No former City elected official shall, for a period of 2 years after the termination of the official's term of office, lobby for money or other consideration a City elected official or their salaried at-will staff.

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- B.** No former salaried at-will staff of a City elected official, shall, for a period of 1 year after the termination of employment, lobby for money or other consideration any City elected official or their salaried at-will staff.
- C.** No former City director shall, for a period of 2 years after termination of the director's appointment, lobby for money or other consideration the current City director of the office or bureau to which the former City director was appointed or, regarding matters within the powers and duties of the bureau to which the former City director was appointed, the City elected official in charge of the office or bureau to which the City director was appointed.
- D.** No Former City employee shall lobby a City Official for money or other consideration regarding a contract if the employee exercised contract management authority with respect to that contract while employed by the City. This prohibition shall be for the duration of the contract.
- E.** The prohibitions in this Section shall not apply to:

  - 1.** Prevent any former City elected official or other City employee from representing himself or herself, or any member of his or her immediate family, in their individual capacities, in connection with any matter pending before the City;
  - 2.** The activities of any former City elected official or other City employee who is an elected or appointed officer or employee of any public body, when that former City elected official or other City employee is solely representing that agency in his or her official capacity as an officer or employee of the public body;
  - 3.** Any ministerial action. For purposes of this subsection, a ministerial action is one that does not require a City official or other City employee to exercise discretion concerning any outcome or course of action.
  - 4.** Prevent City officials or other City employees from seeking information or participation from former City elected officials or other City employees where the public interest would be served by the information or participation.

**2.12.090 Verification of Reports, Registrations and Statements.**

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

- A.** Each report, registration or statement required by this Chapter shall contain or be verified by a written or electronic declaration that it is made under the penalties of false swearing. Such declaration shall be in lieu of any oath otherwise required.

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- B.** No person shall willfully make and subscribe any document which contains or is verified by a written or electronic declaration for false swearing which the person does not reasonably believe to be true and correct to every matter.

**2.12.100 Public Nature of Reports, Registrations and Statements.**

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

**2.12.110 Auditor's Duties.**

(Amended by Ordinance Nos. 187854 and 188842, effective March 30, 2018.) In carrying out the provisions of this Chapter, the City Auditor:

- A.** Shall prescribe forms for registrations, statements and reports, and provide such forms to persons required to register and to file such statements and reports;
- B.** Shall accept registrations and reports in an electronic format;
- C.** Shall accept and file any information voluntarily supplied that exceeds the requirements of this Chapter;
- D.** Shall make registrations, statements and reports filed available for public inspection and copying during regular office hours, and make copies available. The Auditor may charge fees to recover the cost of retrieval and copying;
- E.** May audit whether registrations and reports required by this Chapter have been completed properly and within the time frames specified in this Chapter;
- F.** May initiate investigations and accept and investigate complaints of alleged violations of this Chapter;
- G.** May make such inquiries and obtain such reasonable assistance and information, including records, from any office or person as the Auditor shall require for enforcement purposes, including requests to produce documentary or other evidence that is reasonably relevant to the matters under investigation;
  - 1.** For information and records sought from City offices, employees or officials, the Auditor or any agent or employee of the Auditor employed for the purpose of auditing or investigating the City may obtain confidential and legally privileged information and records held by the City so long as privilege is not waived as to third parties. The Auditor shall not disclose confidential or legally privileged information and records and shall be

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subject to the same penalties as the legal custodian of records for any unlawful or unauthorized disclosure.

- H.** May recover all reasonable costs incurred in enforcement in this Chapter, including but not limited to attorney's fees.
- I.** Is authorized to adopt administrative rules to carry out the duties and to administer the provisions of this Chapter.

**2.12.120 Penalties.**

(Amended by Ordinance Nos. 187854 and 188842, effective March 30, 2018.) A person who violates any provision of this Chapter or fails to file any report, registration or statement or to furnish any information required by this Chapter shall be subject to a civil penalty in an amount not to exceed \$3,000 per violation. By administrative rule, the Auditor shall establish enforcement criteria with increased fines for repeated violations. In the name of the City, the Auditor may seek civil penalties and enforcement of any provision of this Chapter in Multnomah County Circuit Court or other appropriate venue. The Auditor may bring such an action through independent legal counsel retained or employed by the Auditor, or may request that the City Attorney provide such representation.

**2.12.130 Severability.**

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

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**CHAPTER 3.135 - INDEPENDENT DISTRICT  
COMMISSION**

(Chapter added by Ordinance No. 191077, effective  
November 16, 2022.)

**Sections:**

- 3.135.010 Powers and Duties.
- 3.135.020 Administration.
- 3.135.030 Staffing.

**3.135.010 Powers and Duties.**

The Independent District Commission has the powers and duties set forth in City Charter Section 3-109.

**3.135.020 Administration.**

- A.** For procedures not set forth in City Charter Sections 3-108 through 3-110, the Independent District Commission may establish its own bylaws and procedures.
- B.** Commissioners receive a stipend every calendar year. The City may also reimburse a Commissioner's reasonable expenses.

**3.135.030 Staffing.**

The Office of Management and Finance staffs the Independent District Commission and may contract with experts as appropriate. The Office of Management and Finance provides notice of Commission meetings, assists with the development and management of public hearings, and helps draft key documents.



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**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.

**TITLE 5  
REVENUE AND FINANCE**

**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.)

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- 5.73.010 Definitions.
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**5.73.010 Definitions.**

(Amended by Ordinance Nos. 185827, 185960, 187339, 187610 and 191037, effective November 18, 2022.) For the purposes of this paragraph, the following definitions apply unless the context requires a different meaning.

- A. “Arts Teachers” means teachers who provide instruction in any arts discipline, including dance, music, theatre, or visual art.
- B. “Catchment” means the geographical area from which an elementary school within a District draws its students.
- C. “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.
- D. “City Arts Program” means the City’s internal program and its staff who work with City bureaus, Council offices, the Regional Arts & Culture Council, and other partners to support the City’s vibrant arts and culture ecosystem.
- E. “Director” means the Director of the Revenue Division, or authorized designee.

**TITLE 5  
REVENUE AND FINANCE**

- F.** “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.
- G.** “Income-earning resident” means a resident who has income of \$1,000 or more in the tax year.
- H.** “Net Revenues” means the revenue remaining after interest, collection, administrative and other costs and refunds are deducted from Gross Revenues.
- I.** “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.
- J.** “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.
- K.** “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.

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- L. “Schools” means those educational institutions defined as schools by the Oregon Department of Education, but do not include on-line schools.
- M. “School Districts” means the Portland Public, David Douglas, Centennial, Parkrose, Reynolds and Riverdale school districts.

**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 Nos. 187339 and 191037, effective November 18, 2022.) 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 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. Next, funds shall be distributed to the City Arts Program for the purpose of coordinating, supporting, and reporting on arts education services within School Districts. Funding may be used to:
  - 1. Employ highly qualified person(s) to work with the School Districts in the provision of high-quality arts education;
  - 2. Provide professional development opportunities for certified Arts Teachers in the School Districts;

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3. Collect quantitative and qualitative data from School Districts as requested by the City and/or Oversight Committee;
  4. Monitor School District performance and report any IGA compliance concerns to the Oversight Committee;
  5. Convene superintendents, curriculum directors, Arts Teachers, and other School District personnel as needed to coordinate and evaluate high quality arts education in the School Districts.
- C. Any funds remaining after distribution to the School Districts and the City per Subsections 5.73.030 A. and B. 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.
  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.

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**5.73.050 Oversight Committee.**

(Amended by Ordinance Nos. 185827 and 191037, effective November 18, 2022.) The City will appoint an 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 Nos. 187339 and 191037, effective November 18, 2022.) 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;
- 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, the City Arts Program, 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, 188859 and 191037, effective November 18, 2022.)

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- 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 Arts Program's costs for coordinating, supporting, and reporting on Arts Education Activities in the School Districts are capped at 3 percent of Net Revenues.

**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 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.

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- C. The provisions of PCC Subsection 7.02.850 regarding Hacking apply.



**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

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.

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.

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 of 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.



- 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.

**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.

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**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.
- D.** After the close of the public hearing the City Council shall makes 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 7.02 - BUSINESS LICENSE LAW**

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

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**7.02.005 Short Title.**

Chapter 7.02 of the Portland City Code is known as the Business License Law.

**7.02.010 Fees for Revenue.**

The term “license” as used in the Business License Law does not mean a permit, nor is it regulatory in any manner. It is strictly for revenue purposes.

**7.02.020 Conformity to State Income Tax Laws.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) The Business License Law is construed in conformity with the laws and regulations of the State of Oregon imposing taxes on or measured by net income. Any reference in this Chapter to the laws of the State of Oregon means the laws of the State of Oregon imposing taxes on or measured by net income as those laws existed for that particular tax year. The Division has the authority by written policy to connect to and/or disconnect from any legislative enactment that deals with income or excise taxation or the definition of net income. Should a question arise under the Business License Law on which this Chapter is silent, the Division may look to the laws of the State of Oregon for guidance in resolving the question, provided that the determination under State law is not in conflict with any provision of this Chapter or the State law is otherwise inapplicable.

**7.02.100 Definitions.**

(Amended by Ordinance Nos. 184597, 187339, 189389, 189794, 190129, 191010 and 191011, effective October 28, 2022.) The terms used in this Chapter are defined as provided in this section or in Administrative Rules adopted under Section 7.02.210, unless the context requires otherwise:

- A. “Division” means the Revenue Division of the City of Portland, Oregon Bureau of Revenue and Financial Services, along with its employees and agents.

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- B.** “Business income” has the same meaning as “apportionable income” defined in Oregon Revised Statutes 314.610.
- C.** “Business tax” means the tax owed by a taxfiler for any particular license tax year.
- D.** “Business” means an enterprise, activity, profession or undertaking of any nature, whether related or unrelated, by a person in the pursuit of profit, gain, or the production of income, including services performed by an individual for remuneration, but does not include wages earned as an employee.
- E.** “Certificate of Compliance” means the document (or license) issued to a taxfiler upon full compliance with the Business License Law for the license tax year in question.
- F.** “Controlling Shareholder” means any person, alone or together with that person’s spouse, parents, and/or children, who, directly or indirectly, owns more than five (5) percent of any class of outstanding stock or securities of the taxfiler. The term “controlling shareholder” may mean the controlling shareholder individually or in the aggregate.
- G.** “Day” means a calendar day unless otherwise noted.
- H.** “Director” means the Director of the Revenue Division or his or her designee.
- I.** “Doing Business” means to engage in any activity in pursuit of profit or gain, including but not limited to, any transaction involving the holding, sale, rental or lease of property, the manufacture or sale of goods or the sale or rendering of services other than as an employee. Doing business includes activities carried on by a person through officers, agents or employees as well as activities carried on by a person on his or her own behalf.
- J.** “Employee” means any individual who performs services for another individual or organization and whose compensation is reported by an IRS Form W-2.
- K.** “In Compliance” means that:
  - 1.** a non-exempt business has filed and paid the current year’s required business tax; or
  - 2.** a non-exempt business has filed and paid the previous year’s required business tax and has met the current year filing requirements; or
  - 3.** an exempt business has filed the required income verification; or
  - 4.** a new business has filed a completed registration form and is otherwise in compliance with all provisions of the Business License Law.

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- L.** “Income” means the net income arising from any business, as reportable to the State of Oregon for personal income, corporation excise or income tax purposes, before any allocation or apportionment for operation out of state, or deduction for a net operating loss carry-forward or carry-back.
- M.** “Individual” means a natural person, including natural persons who report their income to the State of Oregon in a joint personal state income tax return. In such case, the term “individual” shall refer to the joint taxfiler.
- N.** “Large Retailer” means a business that:
- 1.** is subject to the Portland Business License Tax;
  - 2.** has total gross income, as reported per Section 7.02.610, from Retail Sales of \$1 billion or more in the tax year; and
  - 3.** has Portland gross income, as reported per Section 7.02.610, from Retail Sales of \$500,000 or more in the tax year.
  - 4.** the term “Large Retailer” does not include:
    - a.** any manufacturer or other business that is not engaged in Retail Sales within the City;
    - b.** any contractor as defined under ORS 701.005(5);
    - c.** any entity operating a utility within the City;
    - d.** any cooperative recognized under state or federal law; or
    - e.** a federal or state credit union
- O.** “License Tax Year” means the taxable year of a person for federal or state income tax purposes.
- P.** “Net Operating Loss” means the negative taxable income that may result after the deductions allowed by the Business License Law in determining net income for the tax year.
- Q.** “Non-business income” has the same meaning as “nonapportionable income” defined in Oregon Revised Statutes 314.610.
- R.** “Notice” means a written document mailed by first class by the Division to the last known address of a taxfiler as provided to the Division in the latest registration form or tax return on file with the Division. Alternatively, notice may be delivered in person, by facsimile, email, or other means with taxfiler consent.

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- S.** “Ownership of Outstanding Stock or Securities” means the incidents of ownership which include the power to vote on the corporation’s business affairs or the power to vote for the directors, officers, operators or other managers of the taxfiler.
- T.** “Person” includes, but is not limited to, an individual, a natural person, sole proprietorship, partnership, limited partnership, family limited partnerships, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.
- U.** “Qualified Groceries” means food products that qualify for purchase under the U.S. Department of Agriculture Supplemental Nutritionals Assistance Program (“SNAP”).
- V.** “Qualified Medicine or Drugs” means any medicine, drugs, or medical devices that are regulated by the U.S. Food and Drug Administration as a medicine or drug.
- W.** “Qualified Health Care Services” means any services that involves the provision of health care to the public, including but not limited to doctor, medical clinic and hospital visits and all related services, health insurance, and any care provided by senior care facilities or rehabilitation facilities. This definition includes but is not limited to all services defined as “health care services” under ORS 750.005(5).
- X.** “Qualified Residential Garbage or Recycling Services” means any services provided by a business that are governed by PCC 17.102.140 or PCC 17.102.170.
- Y.** “Qualified Retirement Plan” has the same meaning as prescribed in IRC § 401.
- Z.** “Received” means the postmark date affixed by the United States Postal Service if mailed or the date stamp if delivered by hand or sent by facsimile, or the receipt date from the online file and pay application confirmation notice.
- AA.** “Registration Form” means the initial form that establishes a taxfiler’s account with the Division.
- BB.** “Residential Rental Unit” means a “dwelling unit” a defined by ORS 90.100, that is rented or offered for rent for a period of more than 30 consecutive days.
- CC.** “Retail Gross Revenue” means Retail Sales excluding the deductions outlined in Subsection 7.02.500 F.3.
- DD.** “Retail Sale” means a sale to a consumer for use or consumption, and not for resale. Retail Sale also includes but is not limited to the sale of services, including but not limited to retail banking services.

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- EE.** “Tax return” means any tax return filed by or due from the taxfiler, including an annual exemption request form.
- FF.** “Tax Year” means the taxable year of a person for Federal and/or State income tax purposes.
- GG.** “Taxfiler” means a person doing business within the City and required to file a return, a registration form or other income documentation under the Business License Law.

**7.02.110 Income Defined.**

(Amended by Ordinance Nos. 183727, 187339 and 190129, effective October 16, 2020.)

- A.** Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates, and trusts are liable for the business license tax and not the individual partners, shareholders, members, beneficiaries or owners. The income of these entities must include all incomes received by the entity, including ordinary income, interest and dividend incomes, income from sales of business assets and other incomes attributable to the entity. For income purposes, a limited liability company is deemed to be the tax entity that includes the income of the limited liability company in its federal tax return – if the limited liability company will be disregarded as a separate tax entity.
- B.** If one or more persons are required or elect to report their income to the State of Oregon for corporation excise or income tax purposes or personal income tax purposes in a consolidated, combined or joint return, a single license certificate will be issued to the person filing such return. In such cases, “income” means the net income of the consolidated, combined or joint group of tax filers before any allocation or apportionment for operation out of the state, or deduction for a net operating loss carry-forward or carry-back.
- C.** The absence of reporting income to the Internal Revenue Service or the State of Oregon does not limit the ability of the Division to determine the correct income of the taxfiler through examination under Section 7.02.260.

**7.02.200 Administration.**

(Amended by Ordinance Nos. 187339 and 190129, effective October 16, 2020.)

- A.** The Division is responsible for administering the Business License Law. Authority granted to the Director may be delegated, in writing, to another employee within the Division.
- B.** The Division may, upon request, interpret how the Business License Law applies, in general or for a certain set of circumstances.

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- C. Nothing in this Chapter precludes the informal disposition of controversy by stipulation or agreed settlement, through correspondence or a conference with the Director.

**7.02.210 Administrative Authority.**

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

- A. The Director may implement procedures, forms, and written policies for administering the provisions of the Business License Law.
- B. The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with Business License Law.
- C. Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will publish a notice in a newspaper of general circulation in the City. The notice must be published not less than ten nor more than thirty days before the hearing, and it must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.
- D. At the public hearing, the Director or designee 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 Division's office. Copies of all current rules will be made available to the public upon request.
- E. Notwithstanding Subsections C. and D. of this Section, 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. Any interim rule adopted pursuant to this paragraph is effective for a period of not longer than 180 days.

**7.02.220 Presumption of Doing Business.**

(Amended by Ordinance No. 184597, effective June 17, 2011.) A person is presumed to be doing business in the City and subject to this Chapter if engaged in any of the following activities:

- A. Advertising or otherwise professing to be doing business within the City; or
- B. Delivering goods or providing services to customers within the City; or

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- C. Owning, leasing, or renting personal or real property within the City; or
- D. Engaging in any transaction involving the production of income from holding property or the gain from the sale of property, which is not otherwise exempted in this Chapter. Property may be personal, including intangible or real in nature; or
- E. Engaging in any activity in pursuit of gain which is not otherwise exempted in this Chapter.

**7.02.230 Confidentiality.**

(Amended by Ordinance Nos. 185312 and 187339, effective October 16, 2015.) It is unlawful for any City employee, agent or elected official, or for any person who has acquired information pursuant to Section 7.02.240 A. and C., to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of the Business License Law, unless otherwise required by law. Additionally, it is unlawful to divulge, release or make known in any manner identifying information about any taxpayer applying for tax amnesty, including, but not limited to, the name and address of the taxpayer, unless otherwise required by law. Except as noted above, this Section does not prohibit:

- A. The disclosure of the names and addresses of any persons that have a Division account;
- B. The disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxfiler;
- C. The filing of any legal action by or on behalf of the Division to obtain payment on unpaid accounts; or
- D. The assignment to an outside collection agency of any unpaid account balance receivable, provided that the Division notifies the taxfiler of the unpaid balance at least 60 days prior to the assignment of the claim. Any assignment to an outside collection agency is subject to a reasonable collection fee, above and beyond any amount owed to the Division.

**7.02.240 Persons to Whom Information May be Furnished.**

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

- A. The Division may disclose and give access to information described in Section 7.02.230 to an authorized representative of the Department of Revenue, State of Oregon, or any local government of the State of Oregon imposing taxes upon or measured by gross receipts or net income, for the following purposes:
  - 1. To inspect the license registration or tax return of any taxfiler;
  - 2. To obtain an abstract or copy of the license registration or tax return;

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3. To obtain information concerning any item contained in any registration or tax return; or
4. To obtain information of any financial audit of any tax returns of any taxfiler.

Such disclosure and access will be granted only if the laws, regulations or practices of such other jurisdiction maintain the confidentiality of such information at least to the extent provided by the Business License Law.

- B.** Upon request of a taxfiler, or authorized representative, the Division will provide copies of the taxfiler's registration and/or tax returns filed with the Division for any license tax year.
- C.** The Division may also disclose and give access to information described in Section 7.02.230 to:
  1. The City Attorney, his or her assistants and employees, or other legal representatives of the City, to the extent the Division deems disclosure or access necessary for the performance of the duties of advising or representing the Division, including but not limited to instituting legal actions on unpaid accounts.
  2. Other employees, agents and officials of the City, to the extent the Division deems disclosure or access necessary for such employees, agents or officials to
    - a. aid in any legal collection effort on unpaid accounts,
    - b. perform their duties under contracts or agreements between the Division and any other department, bureau, agency or subdivision of the City relating to the administration of the Business License Law, or
    - c. aid in determining whether a Division account is in compliance with all City, State and Federal laws or policies.
- D.** Officials, employees and agents of the Division or City, prior to the performance of duties involving access to financial information submitted to the Division under the terms of the Business License Law, must be advised in writing of the provision of Section 7.02.730 relating to penalties for the violation of Sections 7.02.230 and 7.02.255. Such employees, agents and officials must execute a certificate in a form prescribed by the Division, stating that the person has reviewed these provisions of law and is aware of the penalties for the violation of Sections 7.02.230 and 7.02.255.



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- E.** Prior to any disclosures permitted by this Section, all persons described in Subsection A. above, to whom disclosure or access to financial information is given, must:
- 1.** Be advised in writing of the provisions of Section 7.02.730 relating to penalties for the violation of Section 7.02.230; and
  - 2.** Execute a certificate, in a form prescribed by the Division, stating these provisions of law have been reviewed and they are aware of the penalties for the violation of Section 7.02.230.

**7.02.250 Taxfiler Representation.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) No person will be recognized as representing any taxfiler in regard to any matter relating to the tax of such taxfiler without written authorization of the taxfiler or unless the Division determines from other available information the person has authority to represent the taxfiler.

**7.02.255 Representation Restrictions.**

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

- A.** No employee or official of the City may represent any taxfiler in any matter before the Division. The restriction against taxfiler representation continues for two years after termination of employment or official status.
- B.** Members of the Appeals Board, as described in Section 7.02.295 of the Business License Law can not represent a taxfiler before the Appeals Board. No member of the Appeals Board can participate in any matter before the Board if the appellant is a client of the member or the member's firm.

**7.02.260 Information Request; Examination of Books, Records or Persons.**

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

- A.** The Division may request information or examine any books, papers, records or memoranda, including state and federal income or excise tax returns, to ascertain the correctness of any license registration or tax return, or to make an estimate of any business tax. The Division has the authority, after notice, to:
  - 1.** Require the attendance of any person subject to the requirements of the Business License Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Division may designate;
  - 2.** Take testimony, with or without the power to administer oaths to any person required to be in attendance; and

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3. Require proof for the information sought, necessary to carry out the provisions of this Chapter.
  4. Require the property manager of a tenants-in-common arrangement to provide financial information related to the arrangement as well as information regarding the owners, including but not limited to the name and last known address of the owners.
- B.** The Director will designate the employees that have the power to administer oaths hereunder. Such employees must be notaries public of the State of Oregon.
- C.** The Division may require contact information, including but not limited to, business phone numbers and business email addresses for all officers and/or owners of businesses doing business in the City of Portland. This information may be used by the City for any lawful purpose.

**7.02.270 Records.**

Every person subject to the requirements of this Chapter must keep and preserve for not less than seven (7) years such documents and records, including state and federal income or excise tax returns, accurately supporting the information reported on the taxfiler's registration form and/or tax returns, and the calculation of tax for such license tax year.

**7.02.280 Deficiencies and Refunds.**

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

- A.** Deficiencies may be assessed and refunds granted any time within the period provided under ORS 314.410, ORS 314.415, and ORS 317.950. The Division may by agreement with the taxfiler extend such time periods to the same extent as provided by statute.
- B.** Consistent with ORS 314.410 (4), in cases where no tax return has been filed, there is no time limit for a notice of deficiency and/or the assessment of taxes, penalty, and interest due.
- C.** Notwithstanding Subsections A. and B., the Division is not required to accept any tax return from a taxfiler if:
1. The Division obtains a money judgment against the taxfiler for failure to pay an unpaid account balance due; and
  2. The Division or its designee lawfully served the taxfiler with the lawsuit pursuant to the Oregon Rules of Civil Procedure; and
  3. The tax return is for a taxable year that is the subject of the money judgment; and

4. The Division gave written notice stating that the taxfiler had an outstanding balance due at least 30 days before the Division (or its designee) filed a lawsuit for those particular tax years.

**7.02.290 Protests and Appeals.**

(Amended by Ordinance Nos. 187339 and 191011, effective October 28, 2022.)

- A. Any determination by the Division may be protested by the taxfiler. Written notice of the protest must be received by the Division within 30 days after the Division mailed or delivered the initial notice of determination to the taxfiler. Failure to file such a written notice within the time permitted will be deemed a waiver of any objections, and the appeal will be dismissed. The protest must state the name and address of the taxfiler and an explanation of the grounds for the protest. The Division must respond within 180 days after the protest is filed with a final determination. The Division's final determination must include the reasons for the determination and state the time and manner for appealing the final determination. The time to file a protest or the time for the Division's response may be extended by the Division for good cause. Requests for extensions of time must be received prior to the expiration of the original 30 day protest deadline. Written notice will be given to the taxfiler if the Division's deadline is extended.
- B. Any final determination by the Division may be appealed by the taxfiler to the Revenue Division Appeals Board (the "Appeals Board"). Written notice of the appeal must be received by the Division within 30 days after the Division mailed or delivered the final determination to the appellant. The notice of appeal must state the name and address of the appealing taxfiler ("appellant") and include a copy of the final determination.
- C. Within 90 days after the Division mails or delivers the final determination to the appellant, the appellant must file with the Appeals Board a written statement containing:
  1. The reasons the Division's determination is incorrect, and
  2. What the correct determination should be.Failure to file such a written statement within the time permitted will be deemed a waiver of any objections, and the appeal will be dismissed.
- D. Within 150 days after the Division mails or delivers the final determination to the appellant, the Division must file with the Appeals Board a written response to the appellant's statement. A copy of the Division's response must be mailed to the address provided by the appellant within 10 days.

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- E.** The Appeals Board must provide the appellant written notice of the hearing date and location at least 14 days prior to the hearing. The appellant and the Division may present relevant testimony and oral argument at the hearing. The Appeals Board may request additional written comment and documents as it deems appropriate.
- F.** Decisions of the Appeals Board must be in writing, state the basis for the decision and be signed by the Appeals Board Chair.
- G.** The decision of the Appeals Board is final as of the issue date and no further administrative appeal will be provided.
- H.** The filing of an appeal with the Appeals Board temporarily suspends the obligation to pay any tax that is the subject of the appeal pending a final decision by the Appeals Board.
- I.** Penalty waiver and/or reduction requests are not subject to the protest/appeal process or timeline outlined in Sections 7.02.290 A. through 7.02.290 H.. The taxfiler must file a written request with the Division detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The Division must respond to requests to reduce and/or waive penalties within 60 days from the date the written request is received. As provided in Section 7.02.700 G., the Division may waive or reduce penalties in certain situations. If the taxpayer has requested that penalties be waived and the Division denies the taxpayer's request for this discretionary waiver of penalties, the taxpayer may request a conference with the Director (or designee) within 30 days of the date of the Division's notice of denial. If the conference with the Director results in a denial of the penalty waiver request, that decision is final and may not be appealed to the Business License Appeals Board.

**7.02.295 Revenue Division Appeals Board.**

(Amended by Ordinance Nos. 187339 and 191011, effective October 28, 2022.) The Revenue Division Appeals Board (the "Appeals Board") hears appeals and consists of the following members:

- A.** A member of the public appointed by the City Auditor for a two year term that expires every even year.
- B.** A member of the public appointed by the elected official in Charge of the Division, (whether that elected official is the Mayor or a Commissioner) for a two year term that expires every odd year.
- C.** Three members of the public appointed by the Mayor, subject to confirmation by the City Council. In making the initial appointments, one member will be appointed for one year, one for two years and one for three years. After making the initial appointments, each member will serve for a term of three years.

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- D. Appointments to the Appeals Board must provide for an appropriate level of expertise in accounting methods and tax regulation.
- E. No employee or agent of the City may be appointed to or serve on the Appeals Board.

**7.02.300 Certificates of Compliance.**

(Amended by Ordinance Nos. 183727, 187339 and 189389, effective February 21, 2019.)

- A. Within 60 days of beginning business, the taxfiler must complete a registration form. The Division may issue or otherwise provide access to either an electronic or printed “Certificate of Compliance” upon registration to assist businesses in proving their compliance to regulatory agencies or to the public. Subsequently, after each year’s tax filing the Division may issue or otherwise provide access to either an electronic or printed Certificate of Compliance indicating that the taxfiler is in compliance with the City’s Business License Tax Law as of a particular date.
- B. The City’s issuance of a “Certificate of Compliance” does not entitle a taxfiler to carry on any business not in compliance with all other requirements of this Code and all other applicable laws.
- C. A taxfiler is deemed to be doing business within the City within any fiscal year they receive income from business activity conducted within the City, notwithstanding that such activity has ceased. Income from business activity that has ceased includes, but is not limited to, income from installment sales (including sales of real property), collection of accounts receivable, covenants not to compete, and income from contractual agreements related to the trade or business activity.

**7.02.310 Duplicate Certificates of Compliance.**

(Amended by Ordinance No. 187339, effective October 16, 2015.) Upon request by the taxfiler a duplicate Certificate of Compliance may be issued to replace any Certificate previously issued that has been lost or destroyed. Duplicate Certificates will be issued in accordance with the Division’s written policy.

**7.02.330 Account Merger or Division.**

When two or more taxfilers combine by merger or acquisition into one reporting entity, or one taxfiler divides or spins off into more than one reporting entity, the business tax for the license tax year after the combination or division will be computed upon the incomes earned by all entities for all tax periods required to be reported under state and federal tax laws and regulations.

**7.02.350 License Tax Year Term.**

(Repealed by Ordinance No. 190129, effective October 16, 2020.)

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**7.02.400 Exemptions.**

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

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

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

**H.** Gross revenues subject to Chapters 7.12 or 7.14. Unless otherwise prohibited by law, gross revenue which is not otherwise subject to Chapters 7.12 or 7.14 is subject to the Business License Law.

**7.02.500 Tax Rate.**

(Amended by Ordinance Nos. 187743, 188129, 189017, 189261, 189389, 189794, 189861, 190129 and 191011, effective October 28, 2022.)

- A.** Except as otherwise provided in this Chapter, a tax is imposed upon each person doing business within the City. The tax established by the Business License Law is 2.2 percent of adjusted net income, for tax years beginning on or before December 31, 2017. For tax years beginning on or after January 1, 2018, the tax is 2.6 percent of adjusted net income, except as provided in Subsections B., C., D. and E. of this Section.
- B.** Surcharges applicable to Tax Years 2002 through 2005. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland.
  1. For the tax year beginning on or after January 1, 2002, a surcharge is imposed in the amount of 1 percent.
  2. For tax year beginning on or after January 1, 2003, a surcharge is imposed in the amount of 0.4 percent.

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3. For tax year beginning on or after January 1, 2004, a surcharge is imposed in the amount of 0.4 percent.
- C. Surcharge applicable to Tax Years 2006 through 2007. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland. The proceeds of the surcharges must be used by the school districts only for programs and activities on which the City is authorized to expend funds pursuant to its charter and state law.
1. For the tax year beginning on or after January 1, 2006, a surcharge is imposed in the amount of 0.14 percent.
  2. No penalties or interest for failure to make quarterly estimated payments in the amount of the surcharge will be charged or imposed for the 2006 tax year.
  3. For the tax year beginning on or after January 1, 2007, a surcharge is imposed in the amount of .07 percent.
  4. If the surcharges raise more than \$9 million plus City costs but less than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, will be dedicated to public schools within the City as provided in Subsection C. of this Section. If the surcharges raise more than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, will be retained as a credit for taxes due in a later tax year. The Director will apply the credit to taxes due no later than the 2010 tax year. The Director has the sole discretion to determine the method of calculating and distributing credits.
- D. Heavy Vehicle Use Tax applicable to Tax Years 2016 through 2023. The following tax is imposed in addition to the tax established in Subsection A. above. The proceeds of this tax are dedicated to supplementing the funding of City of Portland street maintenance and safety and shall be deposited in a Street Repair and Traffic Safety Program of the Transportation Operating Fund where street repair and traffic safety expenditures are recorded.
1. For the tax years 2016 through 2023, a Heavy Vehicle Use Tax is imposed on taxpayers who operate one or more Heavy Vehicles on streets owned or maintained by the City of Portland. For the purposes of this tax, a Heavy Vehicle is any vehicle that is subject to the Oregon Weight-Mile Tax pursuant to ORS 825.450 et seq. For the tax years beginning on or after January 1, 2016, January 1, 2017, January 1, 2018 and January 1, 2019, this



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tax is 2.8 percent of the total Oregon Weight-Mile Tax calculated for all periods within the tax year. For the tax years beginning on or after January 1, 2020, this tax is 3 percent of the total Oregon Weight-Mile Tax calculated for all periods within the tax year.

2. The minimum Heavy Vehicle Use Tax due for a tax year is \$100. The minimum tax would be in addition to the \$100 minimum tax described in Section 7.02.545, if applicable.
  3. No penalties or interest for failure to make quarterly estimated payments in the amount of the Heavy Vehicle Use Tax will be charged or imposed for the 2016 tax year only. Thereafter, penalties and interest will be calculated as provided for in the Code.
  4. The Heavy Vehicle Use Tax shall have a 4 year revenue target, beginning with tax year 2020, of \$11 million plus City costs. If at the end of tax year 2021, the City projects 4 year revenues to be above or below the target by an amount that is more than 10 percent of the target, the City will adjust the rate for subsequent tax years to reach the 4 year target. The Revenue Division of the Bureau of Revenue and Financial Services is authorized to adopt an administrative rule to implement this change, if needed.
- E.** Pay ratio surtax applicable to publicly traded companies subject to U.S. Securities and Exchange Commission pay ratio reporting requirements. The following surtax is imposed in addition to the tax established in Subsection A. above.
1. For tax years beginning on or after January 1, 2017, a surtax of 10 percent of base tax liability is imposed if a company subject to this section reports a pay ratio of at least 100:1 but less than 250:1 on U.S. Securities and Exchange Commission disclosures.
  2. For tax years beginning on or after January 1, 2017, a surtax of 25 percent of base tax liability is imposed if a company subject to this section reports a pay ratio of 250:1 or greater on U.S. Securities and Exchange Commission disclosures.
- F.** Clean Energy Surcharge applicable to Large Retailers with Retail Sales within the City. The following surcharge is imposed in addition to the tax established in Subsection A. above. The proceeds from this surcharge are to support the City of Portland's Climate Action Plan and shall be deposited into the Portland Clean Energy Community Benefits Fund.
1. Filing Requirement. All businesses with total gross income of \$1 billion or more and Portland gross income of \$500,000 or more, as reported on the

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Combined Tax Return per Section 7.02.610, shall file a form that is due at the same time as their Combined Tax Return.

2. Imposition of Surcharge and Rate. Large Retailers shall pay a 1 percent surcharge on Retail Gross Revenue within the City. This surcharge is not a tax imposed directly on the purchaser (consumer). If a Large Retailer itemizes its cost of doing business for the purchaser (consumer), these amounts are still considered Retail Sales subject to the Clean Energy Surcharge.
3. Calculation of Retail Gross Revenue. In calculating the amount of Retail Gross Revenue for purposes of this Clean Energy Surcharge, a deduction from Retail Sales within the City is allowed for the following:
  - a. The amount of the Portland Business License Tax attributable to revenue subject to this surcharge, if any, paid to the city;
  - b. Retail Sales of Qualified Groceries;
  - c. Retail Sales of Qualified Medicine or Drugs;
  - d. Retail Sales of Qualified Health Care Services;
  - e. Retail Sales of Qualified Residential Garbage and Recycling Services; and
  - f. Retail Sales from the administration of Qualified Retirement Plans.
4. Effective Date and Penalties. The Clean Energy Surcharge will apply for all tax years beginning on or after January 1, 2019. Payments will be made consistent with the schedule required in Section 7.02.530. No underpayment interest for failure to make quarterly estimated payments for the Clean Energy Surcharge will be charged or imposed for the 2019 tax year. Thereafter, penalties and interest will be calculated separately from other taxes and surcharges as provided for in Sections 7.02.700 and 7.02.710.

**7.02.510 Registration Form and Tax Return Due Dates.**

(Amended by Ordinance Nos. 183727, 187339 and 190129, effective October 16, 2020.)

- A. All persons subject to the requirements of this Chapter must register with the Division on a form provided or approved by the Division. Thereafter, taxfilers must file tax returns with the Division. The following timing requirements apply:
  1. Registration forms must be filed within 60 days of the person beginning business in the City.

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

**7.02.520 Quarterly Estimates.**

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

**7.02.530 Schedule for Payment of Estimated Tax.**

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

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

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**7.02.545 Tax Returns.**

(Authorized by Ordinance No. 189389, effective February 21, 2019.) Each tax return must be accompanied by a tax payment at the rate established in Section 7.02.500, provided that each such tax return must be accompanied by a minimum tax of \$100 plus any amount due as a result of the temporary surcharge established in Section 7.02.500 B. and D. The minimum payment may have previously been paid by quarterly payments, an extension payment, or credit available from a prior tax year.

**7.02.550 Presumptive Tax.**

(Amended by Ordinance Nos. 187339 and 191011, effective October 28, 2022.)

- A. If a person fails to file a tax return, a rebuttable presumption exists that the tax payable amounts to \$500 for every license tax year for which a tax return has not been filed.
- B. Nothing in this Section prevents the Division from assessing a tax due which is less than or greater than \$500 per license tax year.
- C. Taxes determined under this subsection are subject to penalties and interest from the date the taxes should have been paid as provided in Section 7.02.510 in accordance with Sections 7.02.700 and 7.02.710. The Division will send notice of the determination and assessment to the taxfiler.

**7.02.560 Payment Plan Fee.**

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

**7.02.600 Income Determinations.**

(Amended by Ordinance Nos. 183727, 185781, 186331, 187339, 189017, 189389, 190129 and 191010, effective October 28, 2022.) This Section applies to tax years beginning prior to January 1, 2023. For Tax years beginning on or after January 1, 2023, see Section 7.02.601.

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

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1. For tax years beginning on or after January 1, 2007, the Owners Compensation Deduction cannot exceed \$80,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2008, the Owners Compensation Deduction will be indexed as described above.
  2. For tax years beginning on or after January 1, 2013, the Owners Compensation Deduction cannot exceed \$90,500 per owner as defined in Subsections B., C. and D. below.
  3. For tax years beginning on or after January 1, 2014, the Owners Compensation Deduction cannot exceed \$100,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2015, the Owners Compensation Deduction will be indexed as described above.
  4. For tax years beginning on or after January 1, 2018, the Owners Compensation Deduction cannot exceed \$125,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2019, the Owners Compensation Deduction will be indexed as described above.
- B. Sole Proprietorships.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, owners. However, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per owner.
- C. Partnerships.** In determining income, no deductions are allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability companies, limited liability partnerships, or family limited partnerships. Guaranteed payments to partners or members are deemed compensation paid to owners for services rendered. However:
1. For general partners or members, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per general partner or member.
  2. For limited partners or members of LLCs who are deemed limited partners by administrative rule or policy, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the lesser of actual compensation and interest paid or the amounts listed in Subsection A. per compensated limited partner.
- D. Corporations.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, controlling shareholders

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of any corporation, including but not limited to, C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75 percent of the corporation's income, determined without deduction of compensation or interest, is allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amounts listed in Subsection A. for each controlling shareholder.

1. For purposes of this Subsection, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees or interest paid to all persons meeting the definition of a controlling shareholder must be included.
  2. For purposes of this Subsection, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents and children count as one owner, unless such spouse, parent or child individually control more than five (5) percent ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child who owns more than five (5) percent of stock is deemed to be an additional controlling shareholder.
  3. For purposes of this Subsection, joint ownership of outstanding stock or securities is not considered separate ownership.
- E. Estates and Trusts.** In determining income for estates and trusts, income is measured before distribution of profits to beneficiaries. No additional deduction is allowed.
- F. Non-business Income.** In determining income under this Section, an allocation is allowed for non-business income as reported to the State of Oregon. However, income treated as non-business income for State of Oregon tax purposes may not necessarily be defined as non-business income under the Business License Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business is treated as business income for purposes of the Business License Law. Income derived from non-unitary business functions reported at the State of Oregon level may be considered non-business income. Non-unitary income will not be recognized at an intrastate level. The taxfiler has the burden of showing that income is non-business income.
- G. Nondeductible Taxes and Surcharges.** In determining income, no deduction is allowed for taxes based on or measured by net income. No deduction is allowed for the federal built-in gains tax. No deduction is allowed for the Clean Energy Surcharge.

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- H. Ordinary Gain or Loss.** In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under Subsections 7.02.400 G. and H. must be included as ordinary gain or loss.
- I. Net Operating Loss.** In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75 percent of the income determined for the current license tax year before this deduction, but after all other deductions from income allowed by this Section and apportioned for business activity both within and without the City of Portland.
1. When the operations of the taxfiler from doing business both within and without the City result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.02.610. A net operating loss may not be carried forward from any license tax year during which the taxfiler conducted no business within the City or the taxfiler was otherwise exempt from payment of the business license tax unless specifically provided for by administrative rule or written policy.
  2. In computing the net operating loss for any license tax year, the net operating loss of a prior year is not allowed as a deduction.
  3. In computing the net operating loss for any license or tax year, no compensation allowance deduction is allowed to increase the net operating loss. “Compensation allowance deduction” is defined in Subsection 7.02.600 A.
  4. The net operating loss of the earliest license tax year available must be exhausted before a net operating loss from a later year may be deducted.
  5. The net operating loss in any license tax year is allowed as a deduction in the five (5) succeeding license tax years until used or expired. Any partial license tax year will be treated the same as a full license tax year in determining the appropriate carry-forward period.

**7.02.601 Income Determinations.**

(Added by Ordinance No. 191010, effective October 28, 2022.) This Section applies to tax years beginning on or after January 1, 2023.

- A. Owners Compensation Deductions.** “Owners Compensation Deduction” is defined as the additional deduction allowed in Subsections B., C. and D. below. The owners compensation deduction is indexed (beginning in January 1999) by the Consumers Price Index - All Urban Consumers (CPI-U) US City Average as published by the US Department of Labor, Bureau of Labor Statistics, using the September to September index, not seasonally adjusted (unadjusted

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index). The Division determines the exact deduction amount and publishes the amount on forms. Any increase or decrease under this paragraph that is not a multiple of \$500 will be rounded up or down to the next multiple of \$500 at the Division's discretion.

1. For tax years beginning on or after January 1, 2007, the Owners Compensation Deduction cannot exceed \$80,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2008, the Owners Compensation Deduction will be indexed as described above.
  2. For tax years beginning on or after January 1, 2013, the Owners Compensation Deduction cannot exceed \$90,500 per owner as defined in Subsections B., C. and D. below.
  3. For tax years beginning on or after January 1, 2014, the Owners Compensation Deduction cannot exceed \$100,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2015, the Owners Compensation Deduction will be indexed as described above.
  4. For tax years beginning on or after January 1, 2018, the Owners Compensation Deduction cannot exceed \$125,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2019, the Owners Compensation Deduction will be indexed as described above.
- B. Sole Proprietorships.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, owners. However, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per owner.
- C. Partnerships.** In determining income, no deductions are allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability companies, limited liability partnerships, or family limited partnerships. Guaranteed payments to partners or members are deemed compensation paid to owners for services rendered. However:
1. For general partners or members, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per general partner or member.
  2. For limited partners or members of LLCs who are deemed limited partners by administrative rule or policy, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the



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lesser of actual compensation and interest paid or the amounts listed in Subsection A. per compensated limited partner.

- D. Corporations.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, controlling shareholders of any corporation, including but not limited to, C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75 percent of the corporation's income, determined without deduction of compensation or interest, is allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amounts listed in Subsection A. for each controlling shareholder.
1. For purposes of this Subsection, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees or interest paid to all persons meeting the definition of a controlling shareholder must be included.
  2. For purposes of this Subsection, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents and children count as one owner, unless such spouse, parent or child individually control more than 5 percent ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child who owns more than 5 percent of stock is deemed to be an additional controlling shareholder.
  3. For purposes of this Subsection, joint ownership of outstanding stock or securities is not considered separate ownership.
- E. Estates and Trusts.** In determining income for estates and trusts, income is measured before distribution of profits to beneficiaries. No additional deduction is allowed.
- F. Nondeductible Taxes and Surcharges.** In determining income, no deduction is allowed for taxes based on or measured by net income. No deduction is allowed for the federal built-in gains tax. No deduction is allowed for the Clean Energy Surcharge.
- G. Ordinary Gain or Loss.** In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under Subsections 7.02.400 G. and H. must be included as ordinary gain or loss.
- H. Net Operating Loss.** In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75 percent of the income determined for the current license tax year before this

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deduction, but after all other deductions from income allowed by this Section and apportioned for business activity both within and without the City of Portland.

1. When the operations of the taxfiler from doing business both within and without the City result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.02.611. A net operating loss may not be carried forward from any license tax year during which the taxfiler conducted no business within the City or the taxfiler was otherwise exempt from payment of the business license tax unless specifically provided for by administrative rule or written policy.
2. In computing the net operating loss for any license tax year, the net operating loss of a prior year is not allowed as a deduction.
3. In computing the net operating loss for any license or tax year, no compensation allowance deduction is allowed to increase the net operating loss. "Compensation allowance deduction" is defined in Subsection 7.02.601 A.
4. The net operating loss of the earliest license tax year available must be exhausted before a net operating loss from a later year may be deducted.
5. The net operating loss in any license tax year is allowed as a deduction in the 5 succeeding license tax years until used or expired. Any partial license tax year will be treated the same as a full license tax year in determining the appropriate carry-forward period.

**7.02.610 Apportionment of Income.**

(Amended by Ordinance Nos. 182427, 184597, 187339 and 191010, effective October 28, 2022.) This Section applies to tax years beginning prior to January 1, 2023. For Tax years beginning on or after January 1, 2023, see Section 7.02.611.

- A. "Jurisdiction to tax" occurs when a person engages in business activities in a jurisdiction that are not protected from taxation by Public Law 86-272. Public Law 86-272 applies to interstate sales of tangible personal property. For purposes of the Business License Law, the limits imposed by Public Law 86-272 for interstate jurisdiction to tax shall also be presumed to apply on an intrastate basis. If a taxpayer's business is based in Portland, a taxpayer must have business activity outside Portland that results in a jurisdiction to tax outside Portland to apportion the income of the business. Without jurisdiction to tax outside Portland, all income of a business is taxable by Portland.
- B. "Business activity" means any of the elements of doing business. The income reportable as income earned from business activity within the City of Portland will include all business incomes from sources within the City of Portland that are

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taxable incomes under Oregon tax laws and regulations unless otherwise exempted or excluded in this Chapter.

- C.** In computing the business license tax, taxfilers that have income from business activity both within and without the City must determine the income apportioned to the City by multiplying the total net income from the taxfiler's business by a fraction, the numerator of which is the total gross income of the taxfiler from business activity in the City during the tax year, and the denominator of which is the total gross income of the taxfiler from business activity everywhere during the tax year.
- D.** In determining the apportionment of gross income within the City under Subsection 7.02.610 C.:

  - 1.** Sales of tangible personal property are deemed to take place in the City if the property is delivered or shipped to a purchaser within the City regardless of the f.o.b. point or other conditions of sale. If sales of tangible personal property are shipped from the City to a purchaser located where the taxfiler is not taxable, those sales are not apportioned to the City.
  - 2.** Sales other than sales of tangible personal property are deemed to take place in the City if the income producing activity is performed in the City.
- E.** Certain industries or incomes are subject to specific apportionment methodologies. Such methodologies are described in administrative rules adopted in accordance with Section 7.02.210. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes for apportionment of gross sales, will be used in cases where no rule has been adopted by the Division regarding the apportionment of such industry or income. When gross sales as reported to Oregon are used for apportionment purposes, such gross sales will be defined as gross income for apportionment purposes herein. All apportionment methodologies directed under this Subsection will be a single factor gross income apportionment as directed under Subsections 7.02.610 C. and 7.02.610 D. In those specific cases where Oregon has directed allocation of income, such income will be apportioned for purposes of this Chapter, unless allocation is otherwise allowed in this Chapter.
- F.** If the apportionment provisions of Subsection C. do not fairly represent the extent of the taxfiler's business activity in the City and result in the violation of the taxfiler's rights under the Constitution of this State or the United States, the taxfiler may petition the Division to permit the taxfiler to:

  - 1.** Utilize the method of apportionment used by the taxfiler under the applicable laws of the State of Oregon imposing taxes upon or measured by net income; or

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2. Utilize any other method to effectuate an equitable apportionment of the taxfiler's income.

**7.02.611 Apportionment of Income.**

(Added by Ordinance No. 191010, effective October 28, 2022.) This Section applies to tax years beginning on or after January 1, 2023

- A. "Jurisdiction to tax" occurs when a person engages in business activities in a jurisdiction that are not protected from taxation by Public Law 86-272. The City of Portland's (City) standard for jurisdiction to tax, or nexus, is the same as the State of Oregon's found in the Oregon Revised Statutes and Oregon Administrative Rules related to taxation. If a taxpayer's business is based in the City, a taxpayer must have business activity outside the City that results in a jurisdiction to tax outside the City to apportion the income of the business. Without jurisdiction to tax outside the City, all income of a business is taxable by the City.
- B. "Business activity" means any of the elements of doing business. The income reportable as income earned from business activity within the City will include all business incomes from sources within the City that are taxable income under Oregon tax laws and regulations unless otherwise exempted or excluded in this Chapter.
- C. The City adopts the apportionment and allocation provisions found in the Oregon Revised Statutes, Chapters 314, 317, and 318 and related Oregon Administrative Rules unless otherwise provided in this chapter or by administrative rule. All references to Oregon or the state should be read as referring to the City. All business income must be apportioned to the City by multiplying business income by the sales factor only.
- D. In determining the sales factor numerator under Subsection 7.02.611 C: Sales of tangible personal property are deemed to take place in the City if the property is delivered or shipped to a purchaser within the City regardless of the f.o.b. point or other conditions of sale. If sales of tangible personal property are shipped from the City to a purchaser located where the taxfiler is not taxable, those sales are not apportioned to the City.
- E. Certain industries or incomes are subject to specific apportionment methodologies. Such methodologies are described in the code and administrative rules adopted in accordance with Section 7.02.210. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes and Oregon Administrative Rules for the sales factor, will be used in cases where no rule has been adopted by the Division regarding the apportionment of such industry or income. All apportionment methodologies directed under this Chapter will be a single factor sales apportionment as directed under Subsections 7.02.611 C. and Subsection 7.02.611 D.

**7.02.620 Changes to Federal and/or State Tax Returns.**

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

- A.** If a taxfiler's reported net income under applicable Oregon laws imposing a tax on or measured by income is changed by the federal Internal Revenue Service or the Oregon Department of Revenue, or amended by the taxfiler to correct an error in the original federal or state return, a report of such change must be filed with the Division within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report must be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.
- B.** The Division may assess deficiencies and grant refunds resulting from changes to federal, state, city or county tax returns within the time periods provided for in Section 7.02.280, treating the report of change in federal, state, city or county tax returns as the filing of an amended tax return.
- C.** The Division may assess penalties and interest on the additional tax due as provided in Subsection 7.02.700 A. and 7.02.710 A., or may refuse to grant a refund of business taxes as a result of the amended tax return if the amended tax return is not filed with the Division within the time limits set forth in Subsection A.

**7.02.630 Income Long Term Construction Contract Methods.**

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

**7.02.700 Penalties.**

(Amended by Ordinance Nos. 187339 and 189389, effective February 21, 2019.)

- A.** A penalty will be assessed if a person:
  - 1.** Fails to file a tax return or extension request at the time required under Subsections 7.02.510 A. or 7.02.620 A.; or

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- 2.** Fails to pay the tax when due.
  - 3.** The penalty under Subsection A. is:
    - a.** Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months;
    - b.** An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more; and
    - c.** An additional penalty of 100 percent (1.00) of the total tax liability of all license tax years if the failure to file is for three (3) or more consecutive license tax years.
- B.** A penalty will be assessed if a person who has filed an extension request:
- 1.** Fails to file a tax return by the extended due date; or
  - 2.** Fails to pay the tax liability by the extended due date.
  - 3.** The penalty under Subsection B. is:
    - a.** Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months; and
    - b.** An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more.
- C.** A penalty will be assessed if a person:
- 1.** Fails to pay at least 90 percent (0.90) of the total tax liability, but not less than \$100, by the original due date; or
  - 2.** Fails to pay at least 100 percent (1.00) of the prior year's total tax liability by the original due date.
  - 3.** The penalty under Subsection C. is five percent (.05) of the tax underpayment, but not less than \$5.
- D.** A penalty of \$100.00 may be assessed if a person fails to file a registration form at the time required under Subsection 7.02.510 A.
- E.** The Director may impose a civil penalty of up to \$500 for each of the following violations of the Business License Law:

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1. Failure to file any tax return within 60 days from the due date as further outlined in Section 7.02.510 of this Chapter; or
  2. Failure to pay any tax within 60 days of the Division's original written notice for payment; or
  3. Failure to provide either documents or information (as required by Section 7.02.260) within 60 days of the Division's original written notice to provide the documents or information; or
  4. Failure to fully complete any form required under this Chapter.
  5. Failure to fully comply with the requirements of any section of PCC 7.02 unless such section has a separate penalty calculation.
- F.** The Director may impose a civil penalty under Subsections E.2. and E.3. only if the Division gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.
- G.** The Division may waive or reduce any penalty determined under Subsections A. through E. for good cause, according to and consistent with written policies.

**7.02.710 Interest.**

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

- A.** Interest will be assessed on any unpaid business tax at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax to the 15th day of the month following the date of payment.
- B.** Interest will be assessed on any unpaid or underpaid quarterly estimated payment required by Sections 7.02.520 and 7.02.530 at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.
- C.** Notwithstanding Subsection B. there is no interest on underpayment of quarterly estimated payments if:
1. The total tax liability of the prior license tax year was less than \$1,000; or
  2. An amount equal to at least 90 percent (0.90) of the total tax liability, but not less than \$100, for the current license tax year was paid in accordance with Section 7.02.530; or

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

**7.02.715 Payments Applied.**

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

**7.02.720 Interest on Refunds.**

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

- A.** Any overpayments will be refunded with interest for each month or fraction thereof for a period beginning four (4) months after the later of:

  - 1.** the original due date of the tax return, or
  - 2.** the date the tax return was filed or the refund was otherwise requested, or
  - 3.** the date the business tax was paid to the date of the refund; and
- B.** Any overpayments of taxes that are the result of an amended tax return being filed will be refunded with interest for each month or fraction thereof for the period beginning four (4) months after the date the taxfiler filed the amended tax



return. This Subsection applies to tax returns that are amended due to a change to the federal, state, city or county tax return.

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

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

**7.02.800 Refundable Credit.**

(Amended by Ordinance Nos. 187339 and 189389, effective February 21, 2019.) For tax years beginning on or after January 1, 2005, a maximum of four (4) refundable credits of \$500 each are allowed for qualifying businesses that employ disconnected youth. For the purpose of this credit, the terms used in this section are defined below or as defined in written policies adopted under Section 7.02.210 unless the context requires otherwise.

**A. “Local Business”** means a business operating in the pursuit of profit, gain or the production of income that:

1. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington; and
2. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and
3. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland ’s Business License Law and the Multnomah County Business Income Tax Law.

**B. “Disconnected Youth”** means a youth that is

1. a resident of the City of Portland,
2. is 16-24 years old on the date on which the youth begins working with the local business,
3. has a household income that is at or below 50 percent of the HUD Portland Area Median Income, and
4. one or more of the following apply:

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- a. is receiving (or has received in the last six months) or is a member of a family receiving Temporary Assistance for Needy Families or Aid to Families with Dependent Children or Supplemental Security Income; or
  - b. is a 16-24 year old member of a family that is receiving (or has received in the last six (6) months) food stamps; or
  - c. is a custodial parent; or
  - d. is a high school drop-out; or
  - e. is an adjudicated youth, meaning that they are or have been, in the Oregon Juvenile Justice System or the equivalent thereof in another state.
- C. “Qualified Youth Employment Organization”** means an organization that is qualified and funded to operate youth employment and training programs by the youth certifying agency.
- D. “Credit Certificate”** means a pre-numbered certificate issued by the Youth Certifying Agency upon fulfillment of the employment contract. A separate certificate is required for each credit granted to a business.
- E. “Youth Certifying Agency”** means an agency that has entered into an agreement or other memorandum of understanding with the Division to act as the Youth Certifying Agency for the purpose of this program.
- F. “2005 Tax Year”** means a tax year that begins on or after January 1, 2005 and ends on or before November 30, 2006, but does not exceed a 12 month period.
- G. “2006 Tax Year”** means a tax year that begins on or after January 1, 2006 and ends on or before November 30, 2007, but does not exceed a 12 month period.
- H. “Non-exempt”** means that the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.

**7.02.810 Credits Issued.**

- A. For the 2005 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. For the 2006 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. The credit is non-refundable if the local business was exempt during the tax year in which it claimed the credit. The credit cannot be used to offset amounts due under the Multnomah County Business Income Tax.

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- B.** The 100 refundable credits allocated per year will be issued on a first come, first served basis as measured by the date on which the youth certifying agency completes the certification process for any particular business.
- C.** A maximum of four (4) credits can be claimed on the tax return based on the taxable income for the tax year in which the credit is claimed. If a consolidated, combined or joint return is required to be filed under Section 7.02.110 B., the consolidated, combined or joint group is limited to a maximum of four (4) credits.
- D.** Credit certificates can only be used in the tax year in which they are claimed and cannot be used in any other tax year.
- E.** For the 2005 tax year, only hours worked after June 30, 2005 may be counted towards the 300 hour minimum requirement.
- F.** Businesses cannot count reimbursable or otherwise subsidized hours (wages) toward the 300 hours.
- G.** A business may claim a credit for the same disconnected youth in successive tax years, provided that the youth works the required minimum 300 hours in each tax year.
- H.** The 300 hour requirement must be completed during the business' fiscal tax year rather than the calendar year.

**7.02.820 Obligations of Participating Businesses.**

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

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

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**7.02.830 Collection and Remittance of Donations to the Regional Arts & Culture Council.**

(Amended by Ordinance Nos. 187339 and 190129, effective October 16, 2020.) The Revenue Division is authorized to collect and remit donations from taxfilers to the Regional Arts & Culture Council. If a donation is not included as a specific item on the tax return, the Division will prominently display information that will facilitate a direct donation.

**7.02.840 Frivolous Filing.**

(Amended by Ordinance No. 191011, effective October 28, 2022.) A \$500 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 150-316-0652 are hereby adopted by direct reference.

**7.02.850 Hacking.**

(Amended by Ordinance Nos. 187339 and 189389, effective February 21, 2019.)

- A. Any individual who intentionally accesses the Division's computer database without authorization will be fined:
  - 1. \$10,000 if the individual acquires any information regarding any business account found in the database;
  - 2. \$10,000 or the cost of the loss (whichever is greater) if the individual uses or attempts to use the acquired information for financial gain of any kind; or
  - 3. \$10,000 or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the Division's computer database, and, as a result of such conduct, causes damage to the database.
- B. Definitions. As used in this Section:
  - 1. the term "Division's computer database" means computer application(s) used by the Division to calculate and store business and financial data collected under the authority granted by the Business License Law;
  - 2. the term "loss" means any reasonable cost incurred by the City of Portland, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost

incurred, or other consequential damages incurred because of interruption of service;

3. the term "damage" means any impairment to the integrity or availability of data, a program, a system, or information.

**7.02.860 First Year Adjustment Credit.**

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

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

**7.02.870 Business Retention Credit for Qualifying Investment Management Firms.**

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

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

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1. The Investment Management Firm was not doing business in the City of Portland in the prior tax year or
  2. The prior tax year began prior to January 1, 2009.
    - a. In the first tax year, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the third of three consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
    - b. In the second consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the fourth of four consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
    - c. In the third consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection a. above.
    - d. In the fourth consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection b. above.
- C. “Investment Management Firm” means a taxpayer that satisfies each of the following requirements during the tax year that the credit is sought:
1. At least 90 percent of the firm’s gross income for the tax year must consist of fees that are
    - a. Received from Diversified Investing Fund or from persons unrelated to the firm, and
    - b. Determined as a percentage of the value of assets managed by the firm (including payments to the firm from their parties if the payments are credited against or offset such fees in whole or in part).

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2. At least 90 percent of the assets managed by the firm must consist of Qualifying Investment Securities.
  3. A majority of the voting interests in the firm must be owned by persons who received compensation from the firm that is subject to the Owner's Compensation Deduction in Section 7.02.600.
  4. The firm was physically located within the City of Portland boundaries at the end of the tax year.
- D.** The terms "Diversified Investing Fund" and "Qualified Investment Securities" have the meanings as defined by Administrative Rule.
- E.** This credit is available for tax years beginning on or after January 1, 2009.

**7.02.880 Youth Employment Credit Programs.**

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

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

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

**7.02.881 Foster Youth Employment Opportunity Credit.**

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

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



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

**7.02.882 Youth Career Readiness Credit.**

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

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

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

**7.02.890 Residential Rental Registration Program.**

(Added by Ordinance No. 189086; amended by Ordinance No. 190129, effective October 16, 2020.)

- A. For tax years beginning on or after January 1, 2018, all owners of a Residential

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Rental Unit in the City are required to register the unit and annually provide a schedule that includes the address of all owned Residential Rental Units within the City. The Director may require additional data about the unit by administrative rule. If a property or structure contains more than one dwelling unit, the term Residential Rental Unit refers to each separate dwelling unit.

- B.** In the first tax year of the Residential Rental Registration Program, no additional fee will be imposed in connection with the registration. In subsequent years, a fee may be enacted to partially or fully recover the administration costs of the program in addition to other services as the Council may direct. Any fee schedule would be created and amended by administrative rule in accordance with Section 7.02.210. Penalties shall not apply for failure to file rental registration data in the 2018 tax year. Beginning in tax year 2019 and beyond, the penalty and interest provisions of Sections 7.02.700 and 7.02.710 A. shall apply.
- C.** A person who rents a space for a manufactured dwelling, recreational vehicle, or moorage space for a floating home, but does not rent the actual manufactured dwelling, recreational vehicle, or floating home, is exempt from the registration requirements of this Section.

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**CHAPTER 7.03 - TEMPORARY BUSINESSES**

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

**Sections:**

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

**7.03.010 Temporary Businesses Exempt from Business License Law.**

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

**7.03.020 Fees for Revenue.**

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

**7.03.030 Temporary Businesses Defined.**

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

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

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

**7.03.040 License Required; Fees.**

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

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

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**CHAPTER 7.04 - ADMINISTRATION**

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

**CHAPTER 7.06 - LICENSE REQUIREMENTS  
& APPLICATIONS**

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

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**CHAPTER 7.07 – PORTLAND CLEAN  
ENERGY COMMUNITY BENEFITS**

(Chapter added by Measure 26-201 (approved at November 6, 2018 election); Amended by Ordinance No. 189389, effective February 21, 2019.)

**Sections:**

- 7.07.010 Findings.
- 7.07.020 Policy and Purpose.
- 7.07.030 Definitions.
- 7.07.033 Authority of Director.
- 7.07.035 Surcharge Collection and Enforcement.
- 7.07.040 Portland Clean Energy Community Benefits Fund.
- 7.07.050 The Portland Clean Energy Community Benefits Fund Committee.
- 7.07.060 Funding Categories.
- 7.07.070 Severability Clause.

**7.07.010 Findings.**

(Amended by Ordinance No. 191046, effective November 25, 2022.)

- A.** The City of Portland has adopted numerous climate action goals. These goals affirm the importance of environmental justice; community-based efforts to decrease greenhouse gas emissions; and maximizing the social, economic, and environmental benefits of transitioning away from fossil fuels.
- B.** To meet the City’s goals there is an urgent need to fund and accelerate greenhouse gas emissions reductions and sequestration, especially within low-income communities and communities of color.
- C.** Climate change has a disproportionate impact on the health and financial well-being of low-income communities and communities of color.
- D.** To implement the City’s climate action goals and this Chapter, there is a critical need for more skilled workers. Members of historically disadvantaged groups, including people with disabilities, people experiencing gender or sex-based discrimination in the workplace, women, and people of color are under-represented in the skilled work force, and therefore offer an enormous untapped resource to meet the City’s climate action goals.
- E.** Large retail businesses are a significant contributor to greenhouse gas emissions. They encourage consumption of heavily packaged and non-recyclable products, have carbon intensive shipping, manufacturing, and supply chain practices, and share responsibility for generating a substantial portion of the City’s overall



greenhouse gas emissions when customer traffic and facility operations are considered. These businesses have an inherent responsibility and the financial capacity to support the goals of this Chapter, and an incentive to remain in the City to engage in retail activities here.

**7.07.020 Policy and Purpose.**

(Amended by Ordinance Nos. 189794 and 191046, effective November 25, 2022.)

- A.** Based on the findings set forth above, the purpose of this Chapter is to provide a consistent long-term funding source and oversight structure to invest in climate action projects that support environmental justice and social, economic, and environmental benefits for all Portlanders, including the development of a diverse and well-trained workforce and contractor pool to perform work that reduces or sequesters greenhouse gases.
- B.** This Chapter requires large retailers (those with gross revenues nationally exceeding \$1 billion, and \$500,000 in Portland) to pay a surcharge of 1 percent on gross revenues from retail sales in Portland, excluding basic groceries, medicines, and health care services, in accordance with Subsection 7.02.500 F.

**7.07.030 Definitions.**

(Amended by Ordinance No. 191046, effective November 25, 2022.) Unless otherwise defined in this Section, terms that are defined in the City’s Business License Law, Chapter 7.02 of the Portland City Code, have the meanings provided therein.

- A.** “Administrative expenses” means the salaries and benefits of Program staff; Committee management; planning, developing, and designing the Program; public outreach and communication; preparing solicitations; monitoring, evaluating, and reporting on Program activities; coordinating with local, state, and federal officials; official travel; accounting services; rental and purchase of equipment, utilities, and office supplies; and other overhead.
- B.** “City” means the City of Portland.
- C.** “Clean renewable energy” means energy that is not produced from fossil fuels or nuclear power and which is produced from sun, wind, water or other sources of renewable energy as identified by the City. In-river hydropower projects that harm or have the potential to harm salmonids or other aquatic species, or Native American or other communities that rely on such species, are not appropriate for support under this Chapter.
- D.** “Climate Investment Plan” means a 5-year plan, regardless of the document’s name, recommended by the Committee and adopted by City Council that sets funding priorities and funding levels in accordance with the purpose of this Chapter and the funding categories in Section 7.07.060. The Plan may further refine

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eligibility for grants and contracts under the funding categories. The Plan includes funding levels for community responsive grants, strategic initiatives, and the Green Infrastructure Maintenance Reserve.

- E.** “Community responsive grant” means a grant to address one or more of the funding categories in Section 7.07.060 that is awarded to a qualified organization after a competitive, transparent process.
- F.** “Director” means the Director of the City’s Bureau of Planning and Sustainability or the Director’s authorized representative, designee or agent.
- G.** “Energy efficiency” means a measure of how efficiently an appliance, building, or organization uses energy. Examples of projects designed to increase energy efficiency include, but are not limited to:

  - 1. Heating, lighting water and cooling efficiencies;
  - 2. Repairs to increase the performance of the building envelope;
  - 3. Community-initiated energy plans;
  - 4. Energy storage; and
  - 5. Green building design.
- H.** “Greenhouse gas reduction project” means a project implemented within the City that reduces emissions or the presence of carbon dioxide or other compounds that contribute to climate change.
- I.** “Greenhouse gas sequestration project” means a project that involves long-term storage of carbon dioxide or other pollutants to mitigate or defer global warming. Examples include but are not limited to:

  - 1. Protections and restoration of urban tree canopy;
  - 2. Protection and restoration of greenspace and wetlands; and
  - 3. Agricultural practices that increase the capacity of the soil to store carbon by rebuilding soil organic matter and restoring degraded soil biodiversity, also known as regenerative agriculture.
- J.** “Green Infrastructure Maintenance Reserve” means an annual allocation from the Fund to support the long-term maintenance of green infrastructure in a manner defined in the Climate Investment Plan.

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- K.** “Green infrastructure project” means a project that uses vegetation, soils and other elements and practices to restore some of the natural processes required to reduce greenhouse gases while also benefiting water quality and creating healthier urban environments. Examples include but are not limited to:
1. Urban tree canopy;
  2. Green roofs;
  3. Greenspace protection;
  4. Bioswales; and
  5. Green streets.
- L.** “Non-profit organization” means any organization recognized by the Internal Revenue Service (“IRS”) under Sections 501 and 521(a) of the Internal Revenue Code, in addition to other tax-exempt entities recognized by the IRS such as schools.
- M.** “Portland Clean Energy Community Benefits Fund Program” or “Program” means the City program designed to effectively meet the purpose of this Chapter.
- N.** “Priority populations” means low-income communities and communities of color.
- O.** “Project” or “projects” means an organized effort with measurable outcomes and goals aligned with the categories in Section 7.07.060. These projects are the primary way funds collected under this Chapter are distributed to achieve the purpose of the Chapter.
- P.** “Qualified business” means a for-profit business.
- Q.** “Qualified organization” means a non-profit organization or government entity.
- R.** “Strategic initiative” means an organized effort to address a specific community need or opportunity that is aligned with the categories in Section 7.07.060 and that has measurable outcomes, goals and budget that is set in the Climate Investment Plan.
- S.** “Workforce priority populations” means people with disabilities, people experiencing gender or sex-based discrimination in the workplace, women and people of color.

**7.07.033 Authority of Director.**

(Added by Ordinance No. 191046, effective November 25, 2022.)

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- A.** The Director is authorized to administer and enforce the provisions of this Chapter.
- B.** Authority granted to the Director may be delegated, in writing, to employees or duly authorized agents of the Program.
- C.** The Director may, upon request, issue written interpretations of how this Chapter applies in general or to specific circumstances.
- D.** The Director is authorized to adopt, amend and repeal rules, procedures and forms to implement the provisions of this Chapter.
  - 1.** Before adopting, amending or repealing a rule, the Director must notify interested parties and hold a public comment period. Such notice, which may be provided by mail or electronic means, such as posting on the Program’s website, must be published at least 4 weeks before the close of the public comment period. The notice must include instructions on how an interested party may comment on the proposed rule, a brief description of the subjects covered by the proposed rule and how to access the full text of the proposed rule.
  - 2.** During the public comment period, the Director will receive written comments concerning the proposed rule. At the conclusion of the public comment period, the Director will either adopt the proposed rule, modify it or reject it, taking into consideration the comments received. If a substantial modification is made, an additional public comment period will be held. Unless otherwise stated, all rules are effective upon adoption by the Director. Copies of all current rules will be posted on the Program’s website.
  - 3.** Notwithstanding Subsections 1. and 2., the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not longer than 180 calendar days. The Director may extend the interim rule past the 180 calendar days for good cause, as determined in the Director’s sole discretion.

**7.07.035 Surcharge Collection and Enforcement.**

(Added by Ordinance No. 189794; amended by Ordinance No. 191046, effective November 25, 2022.)

- A.** The Revenue Division of the City administers and enforces collection of the Clean Energy Surcharge. The Division may adopt rules as necessary to implement the

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goals and purposes of Subsection 7.02.500 F. consistent with the processes provided in Section 7.02.210.

- B.** The Division may recover all reasonable costs for such work from the Fund and such costs will not be considered part of the Fund’s administrative expenses.
- C.** Should any proceeds under Subsection 7.02.500 F. be deemed to constitute revenues described under Article IX, Section 3a, of the Oregon Constitution, those revenues must be deposited in a Climate Transportation Investment Account to be managed by the Portland Bureau of Transportation. Such funds must, consistent with the limitations in Section 3a, be used in a manner that promotes the purpose of this Chapter.

**7.07.040 Portland Clean Energy Community Benefits Fund.**

(Amended by Ordinance Nos. 189794 and 191046, effective November 25, 2022.)

- A.** Proceeds from the Clean Energy Surcharge will be placed in a special fund to be designated as the “Portland Clean Energy Community Benefits Fund” (“Fund”).
- B.** Fund proceeds will be distributed through grants and contracts.
- C.** Qualified organizations are eligible to receive grants, solely or in partnership with other non-profit entities, government entities, or for-profit businesses.
- D.** Qualified organizations and qualified businesses are eligible to receive contracts, solely or in partnership with other non-profit entities, government entities, or for-profit businesses.
- E.** No more than 12 percent of the Fund will be spent on administrative expenses. The percent for a fiscal year will be calculated by dividing the administrative expenses for the fiscal year with the sum of the administrative expenses for the fiscal year and the average of the prior 3 fiscal years’ annual Fund revenues.
- F.** The Fund is subject to a financial audit every year and a performance audit every 2 years, with the costs of any audit excluded from the administrative expenses limit.

**7.07.050 The Portland Clean Energy Community Benefits Fund Committee.**

(Amended by Ordinance Nos. 189794 and 191046, effective November 25, 2022.)

- A.** There is established a Portland Clean Energy Community Benefits Fund Committee (“Committee”) made up of experts and community members to:
  - 1.** Recommend the Climate Investment Plan to the Mayor and City Council (together, the “City Council”); and

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2. Evaluate the effectiveness of the Program in achieving the goals of this Chapter.
- B. The Committee is made up of nine members who live, work, go to school or worship in the City. Members are appointed by the Mayor for staggered 4-year terms.
- C. When a Committee member resigns or the member's term expires, the Committee recommends a replacement member. The Mayor considers the Committee's recommendation when appointing Committee members.
- D. The Mayor appoints Committee members confirmed by City Council, based on the following background and expertise:
  1. The Committee will reflect the racial, ethnic and economic diversity of the City. At least two members will be City residents who live east of 82nd Avenue.
  2. Committee members will have demonstrated a commitment to furthering the City's climate action goals and empowering priority populations or workforce priority populations.
  3. At least one member will have significant demonstrated experience in the following fields:
    - a. Residential renewable energy and energy efficiency;
    - b. Commercial renewable energy and energy efficiency;
    - c. Workforce development, job training or apprenticeship projects that target workforce priority populations;
    - d. Experience promoting minority-owned or women-owned businesses;
    - e. Regenerative agriculture, green infrastructure and greenhouse gas sequestration;
    - f. Financing tools that help make renewable energy and energy efficiency available to a broader spectrum of the public; and
    - g. Transportation decarbonization.
  4. While Committee members may have experience in multiple fields, members with deep expertise in a single field will create a balanced Committee in which no one area of expertise dominates.

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**E.** Program staff will:

1. Maintain a public website that includes the Committee's membership, bylaws, meeting agendas, meeting notes and relevant code, administrative rules and policy statements.
2. Implement the Program in accordance with the purpose of this Chapter.
3. Solicit grant applications from qualified organizations. Staff will post to a public website the City's grant solicitation documents as documents are released to the public; staff will post to a public website relevant grant application materials within a reasonable time period after City Council makes its award decision.
4. Solicit contract applications from qualified organizations and qualified businesses in accordance with City procurement practices.
5. Evaluate grant and contract applications to determine whether: (a) the project described in the application meets the priorities identified in the Climate Investment Plan; and (b) the applicant has the capacity to implement the project and ensure fiscal accountability.
6. Manage the selection of grants and contracts in accordance with existing City rules and grant and procurement best practices, including but not limited to publishing on a public website the selection criteria and process for each funding opportunity.
7. Track progress in meeting workforce and contractor equity plan goals on a public website.
8. Perform additional work necessary to implement the Program.

**F.** The Committee will:

1. Recommend the Climate Investment Plan to the City Council. If City Council modifies the Climate Investment Plan, it must explain and post its explanation on the Program's website. The Committee will recommend its first Climate Investment Plan to City Council no later than 9 months after the effective date of this Subsection. The Committee will recommend subsequent Climate Investment Plans to City Council no later than 6 months after the expiration of the previous Climate Investment Plan.
2. Adopt a methodology to measure, track and report to the public, and City Council the effectiveness of the Program in achieving the purpose of this Chapter. All grant and contract recipients will file reports consistent with the Committee's methodology on forms provided by the Program.

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3. Adopt workforce and contractor equity plans with measurable goals to ensure projects are performed by workforce priority populations and include goals for contracting with businesses owned or operated by such populations. The Committee will develop the plans in consultation with workforce and contractor equity stakeholders and incorporate best practices from City’s procurement practices.
4. Recommend City Council amend the Climate Investment Plan if the Committee determines that the Climate Investment Plan no longer meets the purpose of this Chapter.
5. Recommend to City Council amendments to this Chapter necessary to further the purpose of the Chapter.

**7.07.060 Funding Categories.**

(Amended by Ordinance No. 191046, effective November 25, 2022.)

- A. Funding priorities and funding levels in the Climate Investment Plan and funded projects must further the purpose of this Chapter and fall within the following categories:
  1. Renewable energy and energy efficiency projects.
    - a. This category includes residential, commercial, industrial, and school-based projects that reduce greenhouse gases within the City.
    - b. Projects that broaden access to energy efficiency and renewable energy, such as community-initiated energy strategies and decentralized renewable energy, are a high priority.
    - c. At least one half of the projects should benefit priority populations.
    - d. Projects that impact tenants must include terms to encourage rent stability including but not limited to a term that prohibits landlords from using improvements funded by this Chapter as a basis for rent increases.
  2. Climate jobs training, apprenticeships, and contractor development projects.
    - a. This category includes projects serving populations within the Portland metropolitan statistical area that directly facilitate and promote job training, pre-apprenticeship programs, apprenticeship programs, and contractor development in businesses that produce goods or services that reduce or sequester greenhouse gases.





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- b.** Projects that provide benefits to priority populations are a high priority.

**B.** Funding decisions must consider:

- 1.** Co-benefits. Whether a project prioritizes greenhouse gas reduction or sequestration in a manner that promotes environmental justice and social, economic, and environmental benefits.
- 2.** Geographical diversity. Whether projects operate at the neighborhood level (including east of 82nd Avenue) as well as citywide.
- 3.** Organizational representation. To ensure that the Program is inclusive as well as effective, at least 20 percent of the Funds shall be awarded to non-profit organizations with a stated mission and track-record of benefitting economically disadvantaged community members, including workforce priority populations.
- 4.** Leverage. Projects that leverage additional government or private funding and therefore increase the Program's effectiveness should be prioritized, but leverage is not required.
- 5.** Held-over funds. If there are insufficient qualified applicants, funds may be held over to the following year.

**C.** Terms of Grants and Contracts.

- 1.** U.S.-made renewable energy products. Solar, wind or other renewable energy systems purchases must be predominantly manufactured in the United States unless such a product is unavailable or the cost is prohibitive.
- 2.** Workforce and Contractor Equity Agreement. Funding recipients must agree to workforce and contractor equity agreements developed by staff in alignment with workforce and contractor equity plans adopted by the Committee.
- 3.** Family Wage Standards. Wage standards for employees working on projects must be no less protective of workers than those contained in the State of Oregon's Energy Efficiency and Sustainable Technology Act, ORS 470.560(2)(g). For purposes of this Subsection, an employee is not a volunteer or trainee.

**7.07.070 Severability Clause.**

If any part, section or provision of this Chapter, or surcharge imposed pursuant to this Chapter is found unconstitutional, illegal or invalid, such a finding will affect only that

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part, section or provision of the Chapter and the remaining parts, sections or provisions shall remain in full force and effect.

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**CHAPTER 7.08 - LICENSE FEES**

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

**CHAPTER 7.10 - VIOLATIONS**

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

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

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

**Sections:**

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

**7.12.010 Definitions.**

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

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

**7.12.020 Record of Franchises.**

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

**7.12.030 Authority to Inspect Franchisee Records and Require Reports.**

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

**7.12.040 Contents of Franchise.**

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

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

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

**7.12.050 Short Title and Administration.**

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



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

**7.12.060 Payment of Privilege Tax Required.**

- A. **Definitions.** As used in the Utility Privilege Tax, the following terms are defined as provided in this Section:
  1. **“Gross Revenue”** means any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts, from the sale of electrical energy, gas, district heating or cooling, or water, or sewage disposal and treatment service, or for the furnishing or sale of communications or associated services, and for use, rental, or lease of operating facilities of the utility engaged in such business. “Gross Revenues” shall not include earnings from interstate business, or earnings from the business of the United States government.

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

**7.12.070 Privilege Tax Applicable to Other Cases.**

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

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

**7.12.080 Report of Earnings.**

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

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

**7.12.090 Time Payment of the Privilege Tax.**

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

**7.12.100 No Waiver or Estoppel.**

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

**7.12.110 Credits Allowable.**

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

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**7.12.120 Interest and Penalty Applicable.**

- A.** Interest will be assessed on any unpaid privilege tax at the rate of 0.833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax to the 15th day of the month following the date of the payment.
  - 1.** For purposes of calculating interest under Subsection 7.12.120 A., the amount of the privilege tax due shall be reduced by the amount of any privilege tax payments received by the Bureau on or before the due dates established in the Utility Privilege Tax Law.
  - 2.** Interest amounts properly assessed in accordance with this Section may not be waived or reduced by the Director.
- B.** Any person subject to this Chapter or any officer or agent of any association or corporation subject to the provisions of this Chapter who, for a period of 30 days after the statement is required to be filed with the Bureau, fails, neglects, or refuses to file with the Bureau the quarterly statement of Gross Revenues of such person, association or corporation shall be subject to the penalties, including the criminal penalties, provided for violations of Section 7.02.700 Penalties.

**CHAPTER 7.14 - UTILITY LICENSE LAW**

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

**Sections:**

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

**7.14.005 Short Title.**

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

**7.14.010 Fees for Revenue.**

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

**7.14.020 License Required.**

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

**7.14.030 Administration.**

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

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

**7.14.040 Definitions.**

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

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

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

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



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

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

**7.14.050 Application and Issuance.**

A. Any person, including any bureaus of the City, operating a utility coming within the provisions of the Utility License Law shall file an application for a utility license on forms supplied by the Bureau.

B. A person is not required to apply for or obtain a utility license if all its revenues earned from operations as a utility otherwise meet the criteria for deduction under Section 7.14.070. The Director may exercise the authority under Section 7.14.080 to require reports and review records to determine whether revenues are qualified for deduction under Section 7.14.070.

C. Applications for utility licenses shall be filed with the Bureau on or before December 31 for each subsequent calendar year. In the case of any person operating a utility coming within the provisions of the Utility License Law which commences operations within the City after January 15, 2009, the person operating such utility shall apply for a utility license on or before the date of commencing such operations. The application shall include such information as the Director may require in order to determine whether the utility has paid the license fee owed.

D. Upon receiving a completed application, together with any payment due, the Director shall issue a utility license to the applicant. A utility license shall be valid for no longer than one year. Each utility license shall expire on December 31 of the year of issuance.

E. The Director shall prepare application forms and make them publicly available. Failure to receive or secure a form shall not relieve any person from the obligation to obtain a license and pay a license fee under the Utility License Law.

**7.14.060 Fees and Payment.**

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

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

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

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

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

**7.14.065 Limitations.**

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

**7.14.070 Deductions.**

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

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

**7.14.080 Reports and Review of Records.**

(Amended by Ordinance No. 189491, effective May 9, 2019.)

- A.** Each person paying a utility license fee shall simultaneously file a report to the Bureau in a form satisfactory to the Director. The report shall show the licensee's calculations of the license fee, the licensee's gross revenues earned within the corporate limits of the City, and any deductions against the licensee's gross revenues or the amount of the utility license fee. Such reports shall be verified by the licensee or an authorized agent to the effect that all statements made therein are true.
- B.** If a person asserts that any provision of federal, state or local law imposes a limit upon the amount of utility license fees which the City may impose or require from a licensee, the licensee claiming to be within such limitation shall identify in its utility license fee report the specific federal, state or local law, and the service it provides that it claims is subject to the exception.
- C.** The Director shall have authority to arrange for and conduct audits for all amounts paid under Section 7.14, provided that only payments which occurred during a period of 3 years prior to the date the City notifies licensee of its intent to perform an audit shall be subject to such audit. The Director shall make all requests related to the audit in writing. The Director may determinate the scope of audit in each instance.
- D.** The Director shall have authority to issue an administrative subpoena for the purpose of collecting any information necessary to enforce any provision of this chapter.
  - 1.** The Director may inspect, examine, copy and audit any books, papers, records, invoices, and other data needed to determine the accuracy of any license fee due. Such records and documentation shall be open for inspection or examination by the Director or a duly authorized agent. The Director shall have the authority, after notice, to:
    - a.** Require the attendance of any person required to be licensed under the Utility License Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Director may designate;

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- b. Take testimony, with or without the power to administer oaths to any person required to be in attendance. The Director may designate employees who shall have the power to administer oaths. Such employees shall be notaries public of the State of Oregon; and,
  - c. Require proof for the information sought, necessary to carry out the provisions of the Utility License Law.
- 2. If the Director requests in writing that the licensee provide, or cause to be provided, copies of any information reasonably within the scope of the review, and the licensee fails, refuses or neglects to provide copies within 30 days of receipt of the Director's written request, then the 3 year periods under Subsections 7.14.080 C. and 7.14.120 A. shall be extended by one day for each day or part thereof beyond 30 days that the licensee fails to provide, or fails to cause to be provided, such requested information.
- 3. If any licensee fails, refuses or neglects to provide or make records available to the Director for determining the amount of utility license fees due or payable, the Director may determine the amount of the utility license fees due or payable based upon readily-available facts and information. The Director shall notify the licensee in writing of the amount of such fee so determined, together with any penalty or interest due. The total of such amounts shall thereupon become immediately due and payable. The licensee may seek to establish the correct amount by appeal to the Business License Appeals Board within 30 days of the date of the notification letter under Section 7.14.090. In such an appeal, the licensee shall have the burden of establishing that the Director's determination is incorrect, either in whole or in part.
- 4. In addition to the authority and procedures described in Subsections 1.-3., the Director shall have authority to issue administrative subpoenas for the purpose of collecting any information necessary to enforce any provision of this Chapter.

**7.14.085 Refunds by City to Licensee.**

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

**7.14.090 Appeals.**

(Amended by Ordinance No. 189491, effective May 9, 2019.)

- A.** Any person who has received a written determination from the Director applying the provisions of the Utility License Law may appeal such determination of the Director to the Business License Appeals Board of the City as provided in Section 7.02.290 of this Code.
- B.** The filing of any notice of appeal shall not stay the effectiveness of the Director's determination unless the Business License Appeals Board so directs.

**7.14.100 Interest.**

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

**7.14.110 Civil Penalties.**

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

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

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- 5.** For any person to make any false statement on any license application or utility license fee report or to provide false information in any investigation or audit conducted pursuant to the Utility License Law.
- B.** The Director may assess civil penalties for any violation under Subsection 7.14.110 A. of the greater of either a minimum of \$500 per occurrence or up to two percent (2%) of the utility's gross revenues subject to the Utility License Law for the period during which the violation occurred.
- C.** The Director may assess a civil penalty of \$500 if a person fails to file a reporting form as required under Section 7.14.080.
- D.** In assessing civil penalties under this Section, the Director shall produce a written decision, identifying the violation, the amount of the penalty, and the basis for the decision. In making such determination, the Director shall consider the following criteria:

  - 1.** The extent and nature of the violation;
  - 2.** Any benefits to the licensee and any impacts to the City or the general public, financial or otherwise, resulting from the violation;
  - 3.** Whether the violation was repeated and continuous, or isolated and temporary;
  - 4.** Whether the violation appeared willful (characterized primarily by substantial acts of commission) or negligent (characterized primarily by substantial acts of omission);
  - 5.** The magnitude and seriousness of the violation;
  - 6.** The City's costs of investigating the violation and correcting or attempting to correct the violation; and,
  - 7.** Any other factors the Director deems relevant in the particular case.
- E.** The Director may impose civil penalties under this Section only after having given written notice of the potential for assessment of civil penalties identifying the violation serving as the basis for the assessment.
- F.** The Director may waive or reduce any civil penalty for good cause, according to and consistent with written policies.

**7.14.120 Collection of Delinquencies.**

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

**7.14.130 Confidential Financial Information.**

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

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

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**CHAPTER 7.16 - CHARITABLE  
SOLICITATIONS**

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



**CHAPTER 7.18 - LIQUOR LICENSE  
RECOMMENDATIONS**

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

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

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

**Sections:**

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

**7.22.010 Purpose.**

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

**7.22.020 Authorization.**

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

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

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

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

**7.22.030 Permit Required.**

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

**7.22.040 Revocation of a Permit.**

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

**7.22.050 Permit Subject to Ordinances and Regulations.**

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

**7.22.060 Diversion of Traffic.**

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

**7.22.070 Interference Prohibited.**

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

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

**CHAPTER 7.24 - PRIVATE PROPERTY  
IMPOUND TOWING**

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

**Sections:**

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

**7.24.010 Towing of Vehicles from Private Property.**

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

**7.24.020 Administrative Authority.**

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

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

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- B.** The Director is authorized to adopt and enforce administrative rules interpreting and applying the PPI Code. The Director or designee shall make written findings of fact and conclusions of law to support all decisions.
- C.** Prior to the adoption of a new administrative rule, the Director shall give notice to all interested parties of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.

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

**7.24.030 Definitions.**

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

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

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

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

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



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

**7.24.040 Private Property Impound (PPI) Tower Registration.**

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

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

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

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

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

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

**7.24.050 Towing Regulations.**

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

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

**7.24.060 Towing and Storage Rates.**

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

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

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

**7.24.070 Conditions.**

PPI towers registered under this Section will:

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

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

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

**7.24.080 Prohibitions.**

PPI towers will not:

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

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

**7.24.090 Remedies.**

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

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

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



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

**7.24.100 Appeals.**

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

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

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

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

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

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

**Sections:**

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

**7.25.010 Purpose.**

(Amended by Ordinance No. 189333, effective February 1, 2019.) The purposes of this Chapter are to ensure that the regulation of parking at pay and park and non-pay private parking facilities is applied objectively with proper notice; and to protect fairness and convenience for the parking public.

**7.25.020 Savings Clause.**

(Amended by Ordinance No. 189333, effective February 1, 2019.) The If any provision of this Chapter is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such holding has no effect on the validity, legality and enforceability of any other provision of this Chapter.

**7.25.030 Definitions.**

(Amended by Ordinance Nos. 186267, 186746 and 189333, effective February 1, 2019.) Except where the context requires otherwise, the following words and phrases have the definitions given in Section 7.25.030:

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

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- B.** "Boot" means a mechanical device attached to a vehicle to prevent its movement.
- C.** "Director" means the Director of the Revenue Division of the Bureau of Revenue and Financial Services or a designee.
- D.** "Operator" means any person or entity whose business includes assessing and collecting penalties at Registered Facilities.
- E.** "Park" means to leave a vehicle standing, while the driver has exited the Registered Facility, or to leave a vehicle standing for more than 5 minutes.
- F.** "Parker" means any person in control of any vehicle that is parking at a Registered Facility.
- G.** "Parking Fee" means an amount collected in addition to the Penalty in pay and park facilities to compensate facility owners.
- H.** "Payment Device" means any device capable of accepting or receiving parking fee payments by cash or credit card and providing proof of payment.
- I.** "Penalty" means an amount assessed for failure to pay, or properly display proof of payment, for parking at a pay and park facility or for unauthorized or over-time parking at a non-pay private parking facility.
- J.** "Penalty Payment Letter" means the letter sent by the Operator to the last-known registered owner if payment of the Penalty is not received by the Operator within 10 days of the date the Penalty Notice was affixed to a vehicle.
- K.** "Penalty Notice" means the notice affixed to vehicles parked without payment, parked without properly displaying proof of payment or parked without authorization at a Registered Facility, and which is the initial demand for payment.
- L.** "Registered Facility" means a parking lot or structure that is accessible to the public that has been registered with the Revenue Division and is either:
  - 1.** A non-pay private parking facility at which there is no charge for daily or transient parking, and parking or storage of vehicles is limited by time or authorization by the property owner/operator, and where the limitations are enforced by issuance of Penalty Notices; or
  - 2.** A pay and park facility that is open for parking or storage of vehicles by the general public, at which a fee must be paid for parking, where payment of parking fees is enforced by issuance of Penalty Notices, and where Parkers receive a receipt or ticket at the time of payment that has the parking expiration time printed on it.

3. Registered Facility does not include property used for governmental purposes by any agency or special district if the agency or management of the special district performs their own enforcement of the parking policies on the property. If the agency or manager of the special district contracts with another entity to enforce parking policies, the property must be registered with the Revenue Division.

**M.** “**Second Penalty Payment Letter**” means the letter sent by the Operator to the registered owner if payment of the Penalty is not received by the Operator within 30 days of the mailing date of the first Penalty Payment Letter.

**7.25.040 Authorization.**

(Amended by Ordinance No. 189333, effective February 1, 2019.)

- A.** Enforcement. The Director is authorized to enforce all provisions of this Chapter.
1. Investigation. The Director has the power to investigate any and all complaints regarding alleged violations of this Chapter.
  2. Inspection. The Director may inspect any operator records required to be maintained pursuant to this Chapter. Such records must be made available for inspection during normal business hours within 24 hours of notice by the Director.
  3. Delegation. The Director may delegate the authority provided under this Chapter to any City employee or agent thereof.
- B.** Procedures and forms. The Director may adopt procedures and forms to implement the provisions of this Chapter.
- C.** Adoption of rules. The Director may adopt rules pertaining to matters within the scope of this Chapter.
1. Before the Director adopts a rule, a public hearing must be conducted. The Director must give notice of the public hearing in a reasonable manner not less than 10 nor more than 30 days before the hearing. The notice must include the place and time of the hearing; where copies of the full text of the proposed rules may be obtained; and a brief description of the proposed rules.
  2. During the hearing the Director will consider oral and/or written testimony. The Director will adopt, modify or reject the proposed rule based on the testimony received. Unless otherwise stated, all rules are effective upon adoption by the Director and will be kept on file at the Division. Copies of all rules will be made available to the public upon request.

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3. Notwithstanding Subsections 7.25.040 C.1. and 2., the Director may adopt an interim rule without prior public notice upon a finding by the Director that failure to act promptly would result in serious prejudice to the public interest. In so doing, the Director must include the specific reasons for such prejudice. Any rule adopted pursuant to this Subsection will be effective for a period of not longer than 180 days.

**7.25.050 Registration as the Operator of a Facility.**

(Amended by Ordinance Nos. 186267, 186746 and 189333, effective February 1, 2019.)  
No person may assess any Penalty at any facility unless that person is in compliance with the provisions of this Chapter.

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

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5. Any facility number that may be assigned by the Operator;
  6. The amount of the Penalty demanded;
  7. Instructions describing deadlines and acceptable methods of payment;
  8. Warning, if an operator collects the Administrative Fee, that the Administrative Fee may be assessed if the payment of the Penalty is not received within 10 days of issuance of a Penalty Notice;
  9. Any additional Penalty that may be added if not paid within 30 days; and
  10. A statement that the vehicle owner may submit a written complaint to the Revenue Division if attempts to resolve the complaint with the Operator have been unsuccessful anytime within 90 days of the date of the first Penalty Payment Letter. The Division's mailing address and website address for the Parking Penalty Notice Complaints webpage must be included on Penalty Payment Letters.
- C. The Penalty Notice must not represent to be a document issued by any government agency or government official, or otherwise simulate legal or judicial process. The Penalty Notice form is subject to review and approval by the City Attorney's Office.
- D. The Division must approve all notices and letters. If a proposed Penalty Notice or Penalty Payment Letter is rejected by the Division, it will be returned to the applicant for amendment and resubmission without additional fees. If such documents have previously been approved by the City and if no changes to the Section have been made, it is not necessary to resubmit them with each new location application. Changes to Penalty Notices and letters proposed by the Operator must be approved by the Division before they are implemented.
- E. The Director shall reject any incomplete application.

**7.25.060 Registration of a Facility.**

(Amended by Ordinance Nos. 186746 and 189333, effective February 1, 2019.) No Operator shall assess any penalties at any facility unless it is registered with the Revenue Division.

- A. Application. To register a facility with the Division an operator must submit:
1. A written request from the Operator that includes the facility's number (designated by the Operator) and the facility's location;
  2. A drawing of the facility showing adjacent street names, facility entrances and exits, and location of Payment Devices;

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3. A nonrefundable registration fee for each facility in an amount as required by Administrative Rule.
- B.** As a condition of registering a pay and park or non-pay private parking facility under this Chapter, the Operator shall hold the City of Portland and its officers and employees free and harmless, and shall defend and indemnify the City for any claims for damage to property or injury to person that may be occasioned by any work and/or services furnished or carried on under the terms of registration.
- C.** The Director shall inspect an Operator's facility following receipt of the written request for registration, the facility drawing, and the registration fee. If the Director determines that a facility complies with this Chapter's requirements, the Director will issue a registration certificate to the Operator for the facility. If the Director determines that the facility does not comply with this Chapter's requirements, the application will be denied and notice will be sent to the Operator that lists the requirements the facility failed to meet. If an application is denied, the Operator may resubmit the application without payment of additional registration fees at any time within 60 days of the notice date if the deficiencies noted in the original denial have been corrected. Only one such reapplication without payment of registration fees may be made with respect to each facility. If upon such reapplication the registration is again denied, the Operator must file a new facility application accompanied by the required registration fee.
- D.** Facility registrations are valid from the date of issuance until the last day of that same month the following year.
- E.** Reporting Changes. Operators must notify the Director of any changes to the Operator's office location, contact information, and insurance provider prior to implementation of the change. Operators must also notify the Director of any changes to a facility that affect a Parker's use of the facility including, but not limited to, location of entrances and exits and location of a payment machine. Changed facilities must be reinspected before any Penalty Notices are issued.
- F.** Renewal. The Division will send invoices for facility registration renewal to all operators at least 1 month prior to the expiration date. Registrations will be renewed upon payment of the nonrefundable fee for each facility as required by the Administrative Rules.
- G.** Non-assignability. A registration issued or renewed pursuant to the provisions of this Chapter is not assignable or otherwise transferable.

**7.25.070 Payment Device.**

(Amended by Ordinance No. 189333, effective February 1, 2019.) Payment Devices must be installed at pay and park facilities in locations convenient and accessible to all Parkers.



**7.25.080 Signage Requirements.**

(Amended by Ordinance Nos. 186267 and 189333, effective February 1, 2019.) All signs required pursuant to this Section must be unobstructed, reflectorized and visible during all hours of operation. All signs required to be posted at a facility entrance must be no more than 10 feet from the entrance, must be located within 2 feet of the property line, and the center of such sign must be at least 4 feet from the ground.

Notwithstanding the requirements in Section 7.25.080, the Director may approve a location that is more than 10 feet from the entrance or is not within 2 feet of the property line due to physical characteristics of the property. The Director must give written approval of any exceptions before a sign is posted.

If vehicles are subject to being towed, the facility must comply with the signage requirements in Chapter 7.24 and the Administrative Rules for Towing from Private Property.

If a facility is subject to monitoring by a registered operator, the signs at the payment station or at the entrance of a non-pay facility must include a warning that the facility may be monitored.

**A. Pay and Park Signage.**

- 1.** Pay and Park facilities must have a sign posted at each entrance (in letters at least 7 inches high) stating either "PAY TO PARK ALL HOURS," or "PAY TO PARK POSTED HOURS." For facilities with a "POSTED HOURS" sign, the sign must also state (in letters at least 3 inches high) the exact hours that the facility is operated as a pay and park facility.
- 2.** At each facility containing a Payment Device, there must be a sign (in letters at least 9 inches high) visible from every vehicle entrance stating "PAY HERE," indicating the location of the Payment Device.
- 3.** At each payment location there must be a sign(s) that states (in letters at least 2 inches high):
  - a.** all applicable charges for parking including the posted hours at a "PAY TO PARK POSTED HOURS" facility;
  - b.** at any facility where a Parker receives a printed receipt, that proof of payment must be displayed and clearly visible through the windshield; and
  - c.** that vehicles parked without valid proof of payment or permit are subject to a Penalty.

The center of all signs required at the payment station must be at least 4 feet from the ground.

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4. In spaces reserved for Parkers with a disabled person parking permit, the Operator must attach a sticker or sign to the disabled parking sign at the front of each space that notifies the disabled parking customer that he/she is responsible for payment, regardless of having a disabled person parking permit.

**B. Non-Pay Private Parking Signage.**

1. Non-pay facilities must have a sign posted at each entrance stating:
  - a. that parking is prohibited, reserved or otherwise restricted;
  - b. who is authorized to park;
  - c. all limitations on parking;
  - d. the hours during which parking is restricted; and
  - e. that parking in violation of posted restrictions may result in assessment of a Penalty or towing and storage of a vehicle at the vehicle owner's expense.
2. If a private parking facility is shared by more than one business and parking spaces are assigned to specific businesses, the parking spaces must be marked (or signs posted) clearly indicating which spaces are reserved for each business.

- C.** Notwithstanding Subsections 7.25.080 A. and B., if the Director determines that the requirements are not sufficient to protect the parking public due to a facility's site-specific conditions, configurations, or location, the Director may impose additional facility requirements. These requirements may include, but are not limited to, additional lighting, signage, landscaping, pavement markings, and restrictions on the hours during which penalties may be issued.

**7.25.090 Assessment of Penalties.**

(Amended by Ordinance No. 189333, effective February 1, 2019.)

- A.** Pay and park facilities. The Operator of a pay and park facility may assess and collect a Penalty from any Parker found to have either parked without paying the required parking fees upon parking the vehicle, or parked without placing the proof of payment in the vehicle so that it is clearly visible through the windshield.

The Operator may assess and collect a Parking Fee in addition to the Penalty. Parking Fees must be paid by the Operator to the owner of the facility and must not exceed the maximum authorized by Administrative Rule.

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- B.** Non-pay private parking facilities. The Operator of a non-pay private parking facility may assess and collect a Penalty from any Parker found to have parked without authorization.
- C.** The Penalty assessed to vehicles described in Subsections 7.25.090 A. and B. must not exceed the following amounts:
  - 1.** Not more than the overtime parking penalty set by Multnomah County Circuit Court if paid within 30 days of the mailing date of the Penalty Payment Letter.
  - 2.** Not more than double the overtime parking penalty set by Multnomah County Circuit Court if paid after 30 days from the mailing date of the Penalty Payment Letter.

**7.25.100 Parking Penalty Notice.**

(Amended by Ordinance No. 189333, effective February 1, 2019.)

- A.** When a vehicle is parked in violation of a Registered Facility's requirements, the Operator may affix to the vehicle, in a prominent location, a Penalty Notice.
- B.** The Penalty Notice must be processed as follows:
  - 1.** A copy must be affixed to the vehicle or given to the Parker,
  - 2.** A record of the notice must be retained by the operator for not less than 1 year, and
  - 3.** All records of Penalty Notices must be available to the Director upon request.

**7.25.110 Penalty Payment Letters.**

(Amended by Ordinance Nos. 186267 and 189333, effective February 1, 2019.)

- A.** If the Operator does not receive payment within 10 days from the day the Operator affixed the Penalty Notice to the vehicle, the Operator may mail a Penalty Payment Letter to the last-known registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle. The letter must be mailed no earlier than 10 days nor later than 30 days from the Penalty Notice issuance date. The letter must include:
  - 1.** The amount demanded;
  - 2.** Acceptable method(s) of payment;

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3. The schedule of increases for continued non-payment as described in Chapter 7.25;
4. Space for the recipient to inform the Operator that the person to whom the letter was sent is not the current registered owner of the vehicle;
5. A statement that the vehicle owner may submit a written complaint to the Division if attempts to resolve any disputes with the Operator have been unsuccessful;
6. The mailing address of the Division and the website address for the Parking Penalty Notice Complaints webpage, and
7. A statement to the effect that the Division will only investigate complaints by Parkers regarding the issuance of a Penalty Notice filed within 90 days of the date of the first Penalty Payment Letter.

**B. Administrative Fees.**

1. If an operator incurs costs from the Department of Motor Vehicles (DMV) in its efforts to obtain the name and address of a vehicle's registered owner, the Operator may add a one-time Administrative Fee in addition to the Penalty, provided that:
  - a. 10 days have elapsed since the Penalty Notice issuance;
  - b. The Operator indicates the amount assessed as a separate itemized amount on the Penalty Payment Letter;
  - c. The amount assessed is no more than the amount charged to the Operator by the DMV.
2. Operators may not demand payment for Administrative Fee until they have been charged said fee by the DMV.
3. Although operators may only charge the Administrative Fee once, the fee may be a combination of more than one DMV charge if the first attempt to obtain registered owner information resulted in invalid information. In no event may an operator charge for more than two attempts.

**7.25.120 Unlawful to Tow Vehicles.**

(Amended by Ordinance No. 189333, effective February 1, 2019.) It is unlawful for any person to tow any vehicle parked at any Registered Facility without the permission of the Parker unless:

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

  - 1.** Within the previous 2-year period, the vehicle was parked at any of the Operator’s Registered Facilities without payment of parking fees or authorization, three times or more; and
  - 2.** During that time the Operator affixed and mailed the notices and payment letters as provided for in this Chapter; and
  - 3.** Three or more penalties remain unpaid; and
  - 4.** The Operator has mailed a notice by certificate of mailing, and a reasonable amount of time has elapsed for service of the notice, advising the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle stating that the vehicle will be towed if the vehicle is again parked at a Registered Facility. The notice must also state the total amount due for outstanding Penalties, the issue date and Registered Facility location for each outstanding Penalty, the method(s) of payment accepted, the name, address and phone number of the Operator, and that the vehicle owner may submit a written complaint to the Division if attempts to resolve the complaint with the Operator are unsuccessful. The Operator shall retain a copy of each notice for not less than 1 year and make such copies available upon request of the Director. The notice must be in a form approved by the City Attorney’s Office; and,
  - 5.** Such towing is performed in compliance with Chapter 7.24 Private Property Impound Towing; or
- D.** The vehicle is parked at any of the Operator’s Registered Facilities, and:

  - 1.** Within the previous 90-day period, the vehicle was parked at any of the Operator’s Registered Facilities without payment of parking fees or authorization, three times or more; and

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2. During that time the Operator affixed notices to the vehicle as provided for in this Chapter; and
3. The Operator requested the registered owner's name and address from the appropriate State licensing department but received invalid information due to a new owner failing to register the vehicle, or was not able to request information due to a State's restrictions on the release of registered owner information or because the license plate and/or vehicle identification number were unobtainable; and
4. Such towing is performed in compliance with Chapter 7.24 Private Property Impound Towing.

**7.25.130 Complaint Handling Procedures.**

(Amended by Ordinance Nos. 186267, 186746 and 189333, effective February 1, 2019.)

- A. Operators responding to the complaints of Parkers or registered owners of vehicles must follow these guidelines:
  1. The Operator must be available by telephone and e-mail to the public during normal business hours to accept and respond to public complaints. The Operator must have voicemail and must respond to telephone messages by the end of the next business day.
  2. The Operator must respond in writing to written complaints within 10 days from the date the Operator received the complaint.
  3. The Operator's written response must include the mailing address of the Revenue Division and the address for the Parking Penalty Notice Complaints webpage and a statement that the Parker or registered owner of the vehicle may submit a written complaint to the Division if attempts to resolve the complaint with the Operator are unsuccessful.
  4. All efforts to collect the Penalty and related amounts must be suspended upon the filing of a complaint with the Operator or the Director, pending final resolution.
  5. The Operator must respond in writing within 10 days to inquiries from the Director regarding complaints or operations of a Registered Facility.
  6. Penalties must not increase from the time a complaint is received by the Operator or the Director, pending final resolution.
  7. The Operator must void the Penalty if the Parker or registered owner provides evidence within 30 days of issuance of the Penalty Notice that the

parking fee payment was made at the time the vehicle was parked at the facility or that the Parker was authorized to park.

8. If the Operator reported an unpaid Penalty to a credit agency, the Operator must notify the credit agency immediately upon voiding any Penalty.
- B.** Upon receipt of a complaint the Director shall conduct an investigation.
1. Upon a finding by the Director that there is a basis in Chapter 7.25 for the cancellation of Penalty, the Operator must immediately cancel the Penalty, cease all efforts to collect the Penalty, and refund any payments that have been made.
  2. If the investigation determines that a violation of this Chapter has occurred, the Director will initiate remedies provided in this Chapter.
  3. The Director shall not investigate complaints by Parkers regarding the issuance of a notice of demand for payment of penalties filed any time after 90 days from the date of the first mailed Penalty Payment Letter.

**7.25.140 Maintenance of Records.**

(Amended by Ordinance Nos. 186267 and 189333, effective February 1, 2019.)

- A.** The Operator shall keep and maintain records of all penalties, any transactions relating to collection of past due accounts, written warnings, requests for vehicle towing, and any other transactions or written complaints relating to penalties or the impoundment of vehicles for a period of at least 1 year from the date the Penalty Notice was issued.
- B.** For the purpose of investigating complaints and to aid in enforcement of the requirements of this Chapter, the Director may require the Operator to report financial and operating data listed in Subsection 7.25.140 A., in such form as the Director requires.
- C.** The Operator must compile the necessary data and submit reports to the Director within 10 days of a written request.

**7.25.150 Insurance Required.**

(Amended by Ordinance No. 189333, effective February 1, 2019.) Operators must provide and maintain commercial general liability insurance covering any and all claims for damage to property or personal injury, including death and automobile damage that may arise from operations under the registration.

- A.** Such insurance must provide coverage of not less than \$1 million combined single limit per occurrence, with aggregate of \$1 million for bodily injury or property damage.

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

**7.25.160 Prohibitions.**

(Amended by Ordinance No. 189333, effective February 1, 2019.) No Operator shall:

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

**7.25.170 Remedies.**

(Amended by Ordinance No. 189333, effective February 1, 2019.) Upon a violation by the Operator of any requirements of this Chapter, the Director may exercise the following authority and may apply one or more of the following remedies:

- A.** Suspension or revocation. The Director may suspend a registration of any facility if investigation reveals that the violation has an impact on the public that informal compliance methods have failed to resolve. Suspension of registration may be for a period of up to 14 calendar days. The suspension will be effective from the



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Operator's receipt of written notice of suspension. If the violation is not corrected within the 14 calendar day period, then the Director may revoke the registration. The revocation will be effective upon the mailing of written notice by the Director.

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

**7.25.180 Appeals.**

(Amended by Ordinance No. 189333, effective February 1, 2019.) Any Operator aggrieved by a determination of the Director may appeal such determination to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10.

**7.25.190 Locking Parked Cars.**

(Repealed by Ordinance No. 189333, effective February 1, 2019.)

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**CHAPTER 7.26 - REGULATION OF PAYDAY  
LENDING**

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

**Sections:**

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

**7.26.010 Purpose.**

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

**7.26.020 Definitions.**

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

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

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

**7.26.030 Permits.**

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

**7.26.040 Administrative Authority.**

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

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

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

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

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

**7.26.050 Payment of Principal Prior to Payday Loan Renewal.**

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

**7.26.060 Cancellation of Payday Loan.**

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

**7.26.070 Payment Plan for a Payday Loan.**

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

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

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

**7.26.080 Remedies.**

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

**7.26.090 Appeals.**

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

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**7.26.100 Complaints.**

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

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

**7.26.110 Severability.**

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

# TITLE 10 - EROSION AND SEDIMENT CONTROL REGULATIONS

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**TITLE 10 - EROSION AND SEDIMENT CONTROL  
REGULATIONS**

(Title added by Ordinance No. 173979, effective March 1, 2000)

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**CHAPTER 10.10 - GENERAL**

**Sections:**

- 10.10.010 Short Title.
- 10.10.020 Purpose.
- 10.10.030 Authority.
- 10.10.040 Complaints.
- 10.10.050 Compliance with Other Laws.

**10.10.010 Short Title.**

Title 10 of the Portland City Code shall be known as the “Erosion and Sediment Control Regulations”.

**10.10.020 Purpose.**

(Amended by Ordinance No. 191000, effective October 21, 2022.) This Title provides requirements for ground-disturbing activities related to construction or other uses in order to reduce erosion and discharges of sediment and pollutants. The Erosion and Sediment Control Regulations seek to:

- A. Reduce the sediment and pollutants contained in erosion caused by construction and development;
- B. Reduce the amount of sediment and pollutants entering storm drainage systems and surface waters from all ground disturbing activity;
- C. Reduce the amount of erosion placing dirt and mud on the public right-of-way and surrounding properties during construction and development; and,
- D. Reduce the amount of soil and dust placed into the air during ground disturbing activity.

**10.10.030 Authority.**

(Amended by Ordinance Nos. 176955, 177092, 179690, 182389, 189078 and 191000, effective October 21, 2022.)

- A. General.
  - 1. This Title will be administered and enforced by the Director of the Bureau of Development Services (BDS) for all ground disturbing activities, except as set forth in Subsections A.2 & A.3.
  - 2. For development and construction related activities within the public right-of-way, in a public easement, or under a public works permit or contract, this Title will be administered and enforced by the director of the Bureau that is performing or contracting for the development or construction, specifically, the Director of the Bureau of Transportation, the Director of

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the Bureau of Environmental Services, the Director of Parks and Recreation, and the Administrator of the Portland Water Bureau.

- 3.** For ground disturbing activity that does not require a permit, this Title will be administered and enforced by the Bureau of Environmental Services (BES).
- B.** The Directors, as specified in Subsection A. above, may implement administrative rules, procedures, forms, specifications, and written policies for administering the provisions of this Title.
- C.** The Directors, as specified in Subsection A above, may issue interpretations on the meaning and intent of the Erosion and Sediment Control Regulations. Such interpretations must conform to the purposes of this Title and the Erosion and Sediment Control Manual.
- D.** Rulemaking.
- 1.** The Director of the BDS has the authority to adopt administrative rules and supplemental regulations pursuant to its authority set forth in Subsection A.1., above. Each of the Directors will have the authority to adopt amendments to the Erosion and Sediment Control Manual with the concurrence of the other Directors specified in Subsection A. above. All the Directors specified in Subsection A. above will have the authority to administer and enforce such rules and regulations. Such rules and regulations will be in conformance with the intent and purpose of this Title.  
  
The Director of BES will have authority to adopt rules and supplemental regulations for ground disturbing activities that do not require a permit.
  - 2.** Permanent Rules.  
  
Prior to the adoption of a permanent rule, the Director developing the rule will follow administrative rulemaking procedures for the adopting bureau stated in Title 3, Administration. If there are no specified administrative rulemaking procedures in Title 3 for the adopting bureau, then the adopting bureau will:
    - a.** Publish a notice in a newspaper of general circulation in the City. The notice will be published not less than thirty days before the hearing. The notice will identify the place, time and purpose for the 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 notice will be

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provided to the Office of Community & Civic Life at least thirty days before the hearing.

- b.** At the hearing, a designee of the Director will hear testimony and receive written comments regarding the proposed rules. The designee will provide a recommendation to the Directors. The recommendation will take into consideration the comments received.
- c.** The Director will review the recommendation of the designee, and with the concurrence of the Bureaus will either adopt the proposed rule, modify or reject it.
- d.** If a substantial modification is made to the proposed rule, the Director may adopt the modification as an Interim Rule or will provide an additional public review prior to adoption.
- e.** Unless otherwise stated, all rules will be effective two weeks after adoption by the Director.

**3. Interim Rules.**

An interim rule may be adopted by the Director without prior notice upon a finding that failure to act promptly will result in serious threat of injury or hazard to the public health, the environment, or public or private property. Prior to the adoption of an interim rule, the Director developing the rule will follow administrative rulemaking procedures for the adopting bureau stated in Title 3, Administration. If there are no specified administrative rulemaking procedures in Title 3 for the adopting bureau, then the adopting bureau will:

- a.** Include specific written reasons for adopting the interim rule in the findings.
- b.** Specify the length of time the interim rule will be effective. Interim rules will be effective for a period of not longer than 180 days.
- c.** Not more than 30 days after adoption of an interim rule, publish public notice of interim rules in a newspaper of general circulation and send notice to the Office of Community & Civic Life. Such notice will also identify the location at which copies of the full set of the interim rules may be obtained. Notices will be published not more than 30 days after the adoption of the interim rule.

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4. All final and interim rules will be filed in the office of the Director of the Bureau of Development Services. All final and interim rules will be available to the public at the Development Services Center and on the Bureau of Development Services' website.
  5. Notwithstanding Subsections D.1. through D.4., above, the administrative rules contained in the Erosion and Sediment Control Manual filed with the Council together with the ordinance creating this Title may be adopted by any Director named in Subsection A. above without further public review or comment. Thereafter, any Director thus identified may with the concurrence of the other Directors amend, modify or repeal any of the provisions contained in the Erosion and Sediment Control Manual following the adoption of the rules procedure set forth in Subsection D.
- E.** The Directors, as specified in Subsection A above, may set fees for all permits, plan reviews and inspections under this Title. The fees will be established by the City Council under an adopted fee schedule or by administrative rule. Fees will be set at levels sufficient to cover all administrative costs associated with processing applications, reviewing plans, inspections and enforcement. Enforcement fees may include penalties or fines if allowed by Title 3, Administration. Fees under this Title are in addition to any other fees required by the City Code. Fees under this Title are also not part of any required bond, letter of credit or other form of guarantee.

**10.10.040 Complaints.**

(Amended by Ordinance Nos. 179690 and 191000, effective October 21, 2022.) Each Bureau authorized to administer this Title will create a public complaint process that provides a single point of contact for receiving a complaint.

**10.10.050 Compliance with Other Laws.**

(Amended by Ordinance Nos. 179690 and 191000, effective October 21, 2022.)

- A.** General. The requirements of this Title are minimum requirements. Compliance with this Title does not in any way imply, either directly or indirectly, compliance with any other law.
- B.** Precedence - City Code. Where the provisions of this Title are more restrictive than those set forth in other regulations under the City Code or ordinance, the provisions of this Title will control.
- C.** Precedence - State or Federal Regulation. Where a State or Federal natural resource agency permit requirements address erosion prevention and sediment control, both the State or Federal natural resource protection requirements and requirements of this Title must be met. Where State or Federal requirements conflict with requirements of this Title or the Erosion and Sediment Control Manual, the most

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restrictive requirement will control. For any portions of a site where State or Federal permit requirements do not apply, City Code requirements will control.

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**CHAPTER 10.20 - DEFINITIONS**

**Sections:**

- 10.20.010 Definitions.
- 10.20.020 Referenced Regulations.

**10.20.010 Definitions.**

(Amended by Ordinance Nos. 176955, 179690, 182389 and 191000, effective October 21, 2022.)

- A.** General. For the purpose of this Title, certain abbreviations, terms, phrases, words and their derivatives will be construed as specified in this Chapter. Throughout this Title, the following words and phrases will be construed as set forth in this Section, unless the context requires otherwise.
  
- B.** Definitions.
  - 1. "Accepted" means, for projects in the public right-of-way, that the required plans have been reviewed by the Director and have been found to be in conformance with the Erosion and Sediment Control Regulations.
  - 2. "Applicant" means the person who applies for a permit.
  - 3. "Approval" or "Approved" means a determination by the Director that the provisions of this Title and the Erosion and Sediment Control Manual have been met.
  - 4. "Bedrock" means in-place solid rock.
  - 5. "Best Management Practice" or "BMP" means a physical, chemical, structural or managerial practice that prevents, reduces, or treats the contamination of water, or which prevents or reduces soil erosion or sediment transport.
  - 6. "Bureau" means the Bureau of Environmental Services, the Bureau of Development Services, Portland Parks & Recreation, the Bureau of Transportation and the Portland Water Bureau.
  - 7. "Certified Professional in Erosion and Sediment Control" or "CPESC" means a person who has been so determined by the Soil and Water Conservation Society and the International Erosion Control Association.
  - 8. "Contract Work" means capital improvement program or other City funded public works activities provided by an outside contractor in compliance with the City's Standard Construction Specifications and other applicable special standards.

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9. "Denuded" means land that has had the natural vegetative cover or other cover removed leaving the soil exposed to the elements.
10. "Development" means any human induced change to improved or unimproved real estate, whether public or private, including but not limited to construction, installation, or expansion of a building or other structure, land division, street construction, drilling, and site alteration such as that due to dredging, grading, paving, parking or storage improvements, excavating, filling or clearing.
11. "Director" means those persons specified in Section 10.10.030 or those persons' designees.
12. "Discharge" means any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching, leaking, or placing of any material so that such material leaves the site.
13. "Disturbance Area" means an area where soils are exposed or disturbed by development, both existing and proposed. The Disturbance Area includes staging and storage areas, structures, and areas needed for vehicle access and maneuvering. When a Disturbance Area is delineated for new development, it must be a contiguous area. Agricultural and pasture land and native vegetation planted for resource enhancement are not considered part of the Disturbance Area.  
  
For utility lines, trenches, or other similar linear work, the Disturbance Area includes staging and storage areas, the linear feature, and the areas on each side of the linear feature 15 feet wide for public works projects and 10 feet wide for all other projects. Where necessary for safety in deep trenches, the Disturbance Area may be made wide enough to allow for bending and shoring of the trench.
14. "Drainage Control" means the collection, conveyance and discharge of stormwater.
15. "Environmental Overlay Zone" means any location in a "C" or "P" overlay zone shown on Official Zoning Maps or described in Chapter 33.430 of the City of Portland Zoning Code.
16. "Erosion" means the wearing away of the ground surface as a result of the effects of gravity, wind, water or ice.
17. "Erosion and Sediment Control Manual" means the collection of administrative rules adopted to implement the purpose and intent of this Title.



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18. "Final Grade means the finished grade of the site that conforms to the approved plan.
19. "Grade" means the vertical location of the ground surface.
20. "Ground Disturbing Activity" means any activity that exposes soil.
21. "Nuisance" (See Section 10.80.010 of this Title).
22. "Owner" means the person whose name and address are listed as the owner of the property by the County Tax Assessor on the County Assessment and Taxation records.
23. "Permanent Stabilization" means stabilization of exposed soil after construction to provide long-term soil stabilization.
24. "Permit" means an official document issued by the Director authorizing performance of a specified construction-related activity.
25. "Person" means any individual, partnership, association or corporation.
26. "Plan" means a text narrative, or graphic or schematic representation, with accompanying notes, schedules, specifications and other related documents.
27. "Pollutant" means any substance that is prohibited or limited by the provisions of Chapter 17.39 of the City Code, released or discharged in conjunction with Development.
28. "Responsible Party" means:
  - a. The property Owner or person authorized to act on the Owner's behalf; or
  - b. Any person causing or contributing to a violation of this Title or the Erosion and Sediment Control Manual.
29. "Sediment" means mineral or organic matter discharged from a site.
30. "Site" means any lot, tract, parcel of land, right-of-way, or contiguous combination where any ground-disturbing activity occurs. For utility lines, trenches or other similar linear work, the site includes only the Disturbance Area directly related to the linear work activity (see "Disturbance Area").
31. "Slope" means an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

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32. "Soil" means naturally occurring surficial deposits overlaying bedrock.
33. "Special Site" means a site that has conditions, established in the Erosion and Sediment Control Manual, that may require additional erosion, sediment, and pollutant control measures.
34. "Stabilization" means the process of establishing soil cover of plants, mulch, sod, matting, erosion control blankets, permanent structures, or other material and may be in combination with installation of temporary or permanent structures.
35. "Storm Drainage System" means facilities by which stormwater runoff is collected or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, culverts, pumping facilities, retention and detention basins, natural and constructed (or altered) drainage channels, reservoirs, and other drainage structures.
36. "Stormwater" means water runoff, snowmelt runoff or surface runoff and drainage.
37. "Temporary Stabilization" means stabilization of exposed soil during construction to provide short-term stabilization between construction activities.
38. "Visible or Measurable" means:
- a. Deposits or tracking of mud, dirt, sediment or similar material on public or private streets, adjacent property, or into the storm or surface water system, either by direct deposit, dropping, discharge or as a result of the action of erosion.
  - b. Evidence of concentrated flows of water over bare soils, turbid or sediment laden flows, or on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on the site.
  - c. Earth slides, mud flows, earth sloughing, or other earth movement which leaves the property.
39. "Water Body" means rivers, sloughs, continuous and intermittent streams and seeps, ponds, lakes, aquifers, and wetlands.
40. "Wetland" means an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and which under normal circumstances does support, a prevalence of vegetation typically

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adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs and similar areas.

**10.20.020 Referenced Regulations.**

(Amended by Ordinance Nos. 176955, 182671 and 191000, effective October 21, 2022.)

All referenced regulations are available as specified below:

- A. Erosion and Sediment Control Manual. The Erosion and Sediment Control Manual is maintained by the Bureau of Development Services.
- B. City of Portland Plant List. The City of Portland Plant List is maintained by the Bureau of Planning and Sustainability.
- C. City of Portland Standard Construction Specifications. The City of Portland Standard Construction Specifications are maintained by the City Engineer.

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**CHAPTER 10.30 - REQUIREMENTS**

**Sections:**

- 10.30.010 General Scope.
- 10.30.020 Minimum Requirements.
- 10.30.030 Additional Requirements for Special Sites.
- 10.30.040 Maintenance.

**10.30.010 General Scope.**

(Amended by Ordinance Nos. 175205, 179690 and 191000, effective October 21, 2022.)

**A.** This Title and the Erosion and Sediment Control Manual apply to all ground disturbing activities whether or not a permit is required, unless such activities otherwise are exempted by Portland City Code. All ground disturbing activities must comply with this Title and the Erosion and Sediment Control Manual unless otherwise noted.

**B.** Exemptions:

1. Installation of signs is exempt from this Title.
2. Emergencies: Development which is subject to Subsection A. may commence without complying with the requirements of this Title and the Erosion and Sediment Control Manual if the Director determines that there is a hazard posing imminent danger to life or property, such as substantial fire hazards, risk of flood or other emergency. However, upon a determination by the Director that such emergency has passed, the provisions of this Title and the Erosion and Sediment Control Manual will apply.

**10.30.020 Minimum Requirements.**

(Amended by Ordinance Nos. 179690 and 191000, effective October 21, 2022.) The following minimum requirements apply to all development and ground disturbing activities.

**A.** Purpose

1. No visible or measurable sediment or pollutant may exit the site, enter the public right-of-way or be deposited into any water body or storm drainage system.
2. Depositing or washing soil into a water body or the storm drainage system is prohibited.
3. Ground disturbing activities requiring a permit must provide adequate public notification of the City's Erosion Control Complaint Hotline.

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- B.** Requirements and Standards. Minimum requirements and standards are established in the Erosion and Sediment Control Manual.

**10.30.030 Additional Requirements for Special Sites.**

(Amended by Ordinance Nos. 179690 and 191000, effective October 21, 2022.) When the Director determines that special site conditions may prevent compliance with Section 10.30.020, the Director may require additional erosion, sediment and pollutant control measures. Conditions that constitute a Special Site and additional requirements for Special Sites are established in the Erosion and Sediment Control Manual.

**10.30.040 Maintenance.**

(Amended by Ordinance Nos. 179690 and 191000, effective October 21, 2022.) The Responsible Party must maintain all erosion, sediment and pollutant control measures, temporary and permanent, in proper functioning order for all ground disturbing activities that require a permit. Specific requirements for inspection and maintenance of such measures are established in the Erosion and Sediment Control Manual.

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**CHAPTER 10.40 - PERMITS & PLANS**

**Sections:**

- 10.40.010 Plan Required.
- 10.40.020 Permit and Plan Requirements.
- 10.40.030 Approval or Denial of Erosion, Sediment and Pollutant Control Plan.
- 10.40.040 Alternate Methods or Materials Review Process.
- 10.40.050 Issuance of Permit.
- 10.40.055 Revisions.
- 10.40.060 Public Works Projects.
- 10.40.070 Cancellation of Permit or Expiration of Permit.

**10.40.010 Plan Required.**

(Amended by Ordinance Nos. 179690 and 191000, effective October 21, 2022.)

- A.** The Responsible Party must submit an erosion, sediment and pollutant control plan for any ground disturbing activity that requires a permit to the Director for review if:
  - 1.** The Disturbance Area is 500 square feet or greater in area; or
  - 2.** The Disturbance Area is in a special site as defined in the Erosion and Sediment Control Manual.
- B.** An erosion, sediment, and pollutant control plan is not required for work that does not require a permit or for planting of trees or other vegetation by hand held tools, unless otherwise required by the terms of a compliance order or land use decision.
- C.** Where a plan is required, the Responsible Party may not commence any development before the Director has approved the proposed plan and the required pre-construction inspection has been approved.

**10.40.020 Permit and Plan Requirements.**

(Amended by Ordinance Nos. 179690 and 191000, effective October 21, 2022.)

- A.** All permit applications or contract submittals that require an erosion, sediment, and pollutant control plan must be accompanied by the plans at the time of application or submittal. The number of erosion, sediment and pollutant control plans required will be determined by the applicable permit or contract process. All erosion, sediment, and pollutant control plans must comply with minimum requirements established in the Erosion and Sediment Control Manual.
- B.** The Director will review all erosion, sediment and pollutant control plans. The Director may waive items required under Subsection A above where the Director determines that certain items are not applicable to a specific application or project.

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- C. The Responsible Party will be accountable for any plan modifications needed due to conflicts, omissions or changed conditions that arise in the field. The Responsible Party will bear all costs to comply with the City of Portland Standard Construction Specifications, the Erosion and Sediment Control Manual and the City Code.

**10.40.030 Approval or Denial of Erosion, Sediment and Pollutant Control Plan.**

(Amended by Ordinance No. 191000, effective October 21, 2022.) The erosion, sediment and pollutant control plan will be reviewed by the Director. If the Director finds that the plan complies with this Title and the Erosion and Sediment Control Manual, it will be approved. Such approval will be indicated on the plan documents. The approved plan may not be changed, modified, or altered without authorization from the Director. All development regulated by this Title must be completed in accordance with the approved plan. If the Director approves only a portion of the plan, development may commence, but it must be limited to only that portion of the site for which the plan has been approved.

**10.40.040 Alternate Methods or Materials Review Process.**

(Amended by Ordinance Nos. 176955, 179690, 182389 and 191000, effective October 21, 2022.)

- A. The Director may approve the use of alternate methods or materials that provide protection that is greater than or equal to the protection provided by the methods prescribed in the Erosion and Sediment Control Manual.
- B. In order to determine the suitability of alternate erosion control methods not specifically addressed by this Title or the Erosion and Sediment Control Manual and not approved by the Director as described in Subsection A. above, and to provide interpretation of this Title and the Erosion and Sediment Control Manual, there is created an alternate methods and materials review process. The alternative methods and materials review process is established in the Erosion and Sediment Control Manual.
- C. The burden of proof for all alternative methods or materials reviews is on the Responsible Party.

**10.40.050 Issuance of Permit.**

(Amended by Ordinance No. 191000, effective October 21, 2022.)

- A. No permit requiring an erosion, sediment and pollutant control plan will be issued until the plan is approved.
- B. As a condition of permit issuance, the Responsible Party must agree to allow all inspections to be conducted.

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- C. Where a bond, letter of credit or other guarantee is required, the permit will not be issued until the bond or guarantee has been obtained and approved.

**10.40.055 Revisions.**

(Added by Ordinance No. 191000, effective October 21, 2022.) Requirements for revisions are established in the Erosion and Sediment Control Manual.

**10.40.060 Public Works Projects.**

(Amended by Ordinance No. 179690, effective November 18, 2005.) Projects within the public right-of-way shall not be commenced until the erosion, sediment and pollutant control plan has been accepted and controls are in place.

**10.40.070 Cancellation of Permit or Expiration of Permit.**

The Director may require that all denuded soil on the site be permanently stabilized before a permit is cancelled or expires.



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**CHAPTER 10.50 - INSPECTIONS**

**Sections:**

- 10.50.010 General.
- 10.50.020 Inspections for Activities that Do Not Require a Permit.
- 10.50.030 City Inspections.
- 10.50.040 Other Inspections.
- 10.50.050 Refusal of Entry.
- 10.50.060 Release of Bond or Other Guarantee.

**10.50.010 General.**

(Amended by Ordinance No. 191000, effective October 21, 2022.)

- A.** The Director may conduct inspections whenever it is necessary to enforce any provisions of this Title or the Erosion and Sediment Control Manual, to determine compliance with this Title and the Erosion and Sediment Control Manual or whenever the Director has reasonable cause to believe there exists any violation of this Title or the Erosion and Sediment Control Manual.
  
- 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 must first present proper credentials to the Responsible Party and request entry. If such entry is thereupon refused, the Director will have recourse to any remedy provided by law to obtain entry, including obtaining an administrative search warrant.

**10.50.020 Inspections for Activities that Do Not Require a Permit.**

(Amended by Ordinance No. 191000, effective October 21, 2022.)

- A.** Ground disturbing activities that do not require a permit will be inspected as the result of a complaint or whenever the Director becomes aware of a possible violation of this Title or the Erosion and Sediment Control Manual.
  
- B.** Inspections in response to complaints will occur from one of the following locations:
  - 1.** The adjacent right-of-way;
  - 2.** Adjacent public property;
  - 3.** Adjacent private property with approval of entry from the property owner;  
or
  - 4.** The property that is the subject of the complaint with approval for entry by the property owner.

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**10.50.030 City Inspections.**

(Amended by Ordinance Nos. 179690 and 191000, effective October 21, 2022.) The Director will conduct the following inspections on development activities that require a permit when an erosion, sediment, and pollutant control plan is required. It is the duty of the Responsible Party to notify the Director at the appropriate inspection phase as set forth below. Inspections of erosion, sediment and pollutant control measures may occur with other inspections being conducted on the development or construction project.

- A.** Pre-construction inspection. The Director will conduct inspections after initial, temporary erosion, sediment and pollutant control measures have been put in place and prior to any ground disturbance in addition to that necessary for the installation of the erosion, sediment and pollutant control measures. When the development is being conducted in phases, this inspection will occur at the beginning of each phase.
- B.** Permanent stabilization inspection. The Director will conduct inspections after permanent stabilization is in place. When the development is being conducted in phases, this inspection will occur after permanent stabilization has been installed for each phase.
- C.** Interim inspections. The Director may conduct other inspections not specifically addressed above to determine compliance with this Title. When the Director determines an interim inspection is necessary, the interim inspection must be completed and receive inspection approval prior to subsequent inspections.
- D.** Post-construction erosion control inspection. An inspection may be conducted after construction completion to determine the effectiveness of permanent erosion and sediment control measures. This inspection will be conducted six months after construction completion or at other times determined by the Director. This inspection may be conducted at sites other than special sites as determined by the Director.

**10.50.040 Other Inspections.**

(Amended by Ordinance No. 191000, effective October 21, 2022.) Where the Director has determined that special site conditions exist, the Director may require a special inspector to monitor erosion, sediment and pollutant control at that site. The special inspector must be qualified to perform such monitoring.

**10.50.050 Refusal of Entry.**

(Amended by Ordinance No. 191000, effective October 21, 2022.) No person may refuse entry or access to a permitted development project to any authorized representative of the Director who provides proper credentials and requests entry for the purpose of conducting an inspection. In addition, no person may obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties.

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**10.50.060 Release of Bond or Other Guarantee.**

(Amended by Ordinance Nos. 179690 and 191000, effective October 21, 2022.) At the time of project approval, when the Director determines that all provisions of this Title and the Erosion and Sediment Control Manual have been met, the bond, letter of credit or other guarantee that has been provided will be released. Public works permit and contract performance guarantees will be released as dictated in the applicable permit or warranty agreements.

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**CHAPTER 10.60 - REVISIONS**

(Chapter repealed by Ordinance No. 191000,  
effective October 21, 2022.)

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**CHAPTER 10.70 - ENFORCEMENT AND  
PENALTIES**

**Sections:**

- 10.70.010 Violation of Title.
- 10.70.020 Administrative Rules for Enforcement, Fees, and Penalties .
- 10.70.040 Erosion, Sediment and Pollutant Control Plan for Activities that Do Not Require a Permit.
- 10.70.070 Administrative Review.

**10.70.010 Violation of Title.**

(Amended by Ordinance No. 191000, effective October 21, 2022.)

- A.** The following actions constitute a violation of this Title:
  - 1.** Any failure, refusal or neglect to comply with any requirement of this Title or the Erosion and Sediment Control Manual.
  - 2.** Allowing or causing a condition that threatens to injure public health, the environment, or public or private property.
  - 3.** Failure to correct ineffective erosion, sediment and pollutant control measures 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.

**10.70.020 Administrative Rules for Enforcement, Fees, and Penalties.**

(Replaced by Ordinance No. 191000, effective October 21, 2022.)

- A.** City bureaus may adopt administrative rules for enforcement, fees, and penalties in accordance with authority and procedures in City Code Title 3, Title 22, and other City titles that grant authority for administrative rulemaking and are not subject to the requirements of Sections 10.70.040 – 10.70.070.
- B.** The Bureau of Environmental Services may enforce the provisions of this Title and the Erosion and Sediment Control Manual for ground-disturbing activities that occur in the public right-of-way.

**10.70.030 Stop Work Orders.**

(Repealed by Ordinance No. 191000, effective October 21, 2022.)

**10.70.040 Erosion, Sediment and Pollutant Control Plan for Activities that Do Not Require a Permit.**

(Amended by Ordinance No. 191000, effective October 21, 2022.) If ground disturbing activities that do not require a permit violate provisions of this Title, the Responsible Party

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may be required to submit an ESPC Plan to demonstrate what measures will be revised or added to comply with the requirements of this Title.

**10.70.050 Voluntary Compliance Agreement.**

(Repealed by Ordinance No. 191000, effective October 21, 2022.)

**10.70.060 Civil Penalties**

(Repealed by Ordinance No. 191000, effective October 21, 2022.)

**10.70.070 Administrative Review.**

(Amended by Ordinance No. 191000, effective October 21, 2022.)

- A.** Whenever the Responsible Party has been given a notice or order pursuant to this Title, the Erosion and Sediment Control Manual, or the Erosion and Sediment Control Enforcement Administrative Rule, and has been directed to make any correction or to perform any act and the Responsible Party believes the finding of the notice or order was in error, the Responsible Party may request to have the notice or order reviewed by the Director. If a review is sought, the Responsible Party must submit a written request to the Director within 15 calendar days of the date of the notice or order. Such review will be conducted by the Director or designee. The Responsible Party requesting such review will be given the opportunity to present evidence to the Director regarding the notice or order. Following a review, the Director will issue a written determination. Nothing in this Section limits the authority of the Director to initiate a code enforcement proceeding under Title 22.
- B.** A Responsible Party may appeal the Director's decision regarding a notice or order rendered pursuant to Subsection A. above to the Codes Hearings Officer in accordance with Title 22 of the City Code.

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**CHAPTER 10.80 - NUISANCE ABATEMENT**

**Sections:**

- 10.80.010 Summary Abatement Authorized.
- 10.80.020 Notification Following Summary Abatement.
- 10.80.030 Financial Responsibility.

**10.80.010 Summary Abatement Authorized.**

(Amended by Ordinance No. 191000, effective October 21, 2022.) The Director may determine that the failure or non-existence of erosion, sediment and pollutant control measures as required by this Title or the Erosion and Sediment Control Manual constitute a nuisance presenting an immediate threat of injury to the public health, the environment, or public or private property. Such nuisances will be subject to the requirements of this Chapter. In cases where the Director determines it is necessary to take immediate action in order to meet the purposes of this Title or the Erosion and Sediment Control Manual, summary abatement of such nuisance is authorized.

**10.80.020 Notification Following Summary Abatement.**

(Amended by Ordinance No. 191000, effective October 21, 2022.)

- A. When summary abatement is authorized by this Title or the Erosion and Sediment Control Manual, the decision regarding whether or not to use summary abatement will be at the Director's discretion. In case of summary abatement, notice to the Responsible Party prior to abatement is not required. However, following summary abatement, the Director will post upon the development site liable for the abatement a notice describing the action taken to abate the nuisance.
- B. Additional Notification by Mail.
  - 1. Upon posting of the notice described in Subsection A above, the Director will cause a notice to be mailed to the Owner at the Owner's address as recorded in the county assessment and taxation records for the property. The mailed notice will include the content described in the Erosion and Sediment Control Enforcement Administrative Rule.
  - 2. An error in the name of the property Owner or address listed in the county assessment and taxation records will not render the notice void but in such case the posted notice will be deemed sufficient.

**10.80.030 Financial Responsibility.**

(Amended by Ordinance Nos. 189413 and 191000, effective October 21, 2022.)

- A. Whenever a nuisance is abated under this Title, the Director will keep an accurate account of all expenses incurred, including any civil penalties plus 100 percent of contractor's costs for each nuisance abated. When the City has abated a nuisance

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maintained by an owner of real property, for each subsequent nuisance which is abated by the City within two consecutive calendar years concerning real property, owned by the same person, an additional civil penalty of 50 percent (minimum of \$100) of the cost of abatement will be added to the costs charges and civil penalties provided for in this Subsection. The additional civil penalty will be imposed without regard to whether the nuisances abated by the City involve the same real property or are of the same character.

- B.** When a property meets the conditions for costs or penalties as described in this Section, the Director will file a statement of such costs or penalties with the Revenue Division. Upon receipt of the statement, the Revenue Division will mail a notice to the property Owner, stating the City's intent to assess the property in question the amount due plus charges to cover the costs of the Revenue Division. In the event that the amount due as set forth in the notice is not paid in full within 30 days of the date of notice, the Revenue Division will enter the amount of the unpaid balance, plus charges to cover administrative costs of the Revenue Division, in the Docket of City liens, which will therefore constitute a lien against the property.



**TITLE 11 - TREES**

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

**TITLE 11  
TREES**

**CHAPTER 11.05 - LEGAL FRAMEWORK  
AND RELATIONSHIPS**

**Sections:**

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

**11.05.010 Purpose.**

(Amended by Ordinance No. 191030, effective November 11, 2022.)

- A.** The Tree Code is one of the implementation measures of the Urban Forest Plan. Together with education and other initiatives, these regulations protect the health, safety, and general welfare of the citizens of Portland and are consistent with other plans and policies of the City. In so doing, the appearance of the City is enhanced and important ecological, cultural, and economic resources are protected for the benefit of the City's residents and visitors.
  
- B.** Trees are a fundamental component of the City's green infrastructure. The chapters within this Title address trees in both development and non-development situations and seek to enhance the quality of the urban forest and optimize the benefits that trees provide. Desired tree benefits include:
  - 1.** Providing oxygen and capturing air pollutants and carbon dioxide;
  - 2.** Maintaining slope stability and preventing erosion;
  - 3.** Filtering stormwater and reducing stormwater runoff;
  - 4.** Reducing energy demand and urban heat island through shading of buildings and impervious areas;
  - 5.** Providing visual screening and buffering from wind, storms and noise;
  - 6.** Sustaining habitat for birds and other wildlife;
  - 7.** Providing a source of food for wildlife and people;
  - 8.** Maintaining property values and the beauty, character and natural heritage of the City; and
  - 9.** Meeting the multi-purposed objectives of the Urban Forest Plan, including reaching and sustaining canopy targets for various urban land environments.

**11.05.020 Official Name.**

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

**11.05.030 Authority.**

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

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

**11.05.040 Where This Title Applies.**

- A.** In City of Portland. This Title applies to all trees within the City of Portland.
- B.** County Urban Pocket Areas. Trees in the "County Urban Pocket Areas" are subject to only some of the regulations of this Title. The County Urban Pocket Areas are areas outside the City of Portland where the Portland Zoning Code and other Portland regulations are administered.
  - 1.** Trees in the County Urban Pocket Areas are subject to the regulations of:
    - a.** Chapter 11.05 Legal Frameworks and Relationships
    - b.** Chapter 11.10 Administration of this Title
    - c.** Chapter 11.15 Funds and Contributions
    - d.** Chapter 11.80 Definitions and Measurements
  - 2.** Trees in the County Urban Pocket Areas are exempt from the regulations of:
    - a.** Chapter 11.20 Urban Forestry Program
    - b.** Chapter 11.30 Tree Permit Procedures
    - c.** Chapter 11.40 Tree Permit Requirements (No Associated Development)
    - d.** Chapter 11.45 Programmatic Tree Permits
  - 3.** Trees in the County Urban Pocket Areas are subject to some of the regulations of the following chapters. Each of these chapters specifies which sections apply to the County Urban Pocket Areas:
    - a.** Chapter 11.50 Trees in Development Situations



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3. Current versions and citations. All references to other City, regional, state or federal regulations in the Tree Code refer to the most current version and citation for those regulations, unless specifically indicated otherwise. Where the referenced regulations have been repealed, requirements to comply with those regulations are no longer in effect. Where the citation for the referenced regulation has been renumbered, the regulation continues to apply.
4. City guidelines and policy documents. City, Street, or Private Trees may be subject to policy, design, or other guidance documents adopted in compliance with City Code. In these cases, the City Forester shall adhere to these documents insofar as they do not conflict with the requirements of this Title. In cases of such conflict, the City Forester may require an alternative that is consistent with this Title and that reasonably satisfies the overall objectives of the policy or guidance document.

**11.05.100 Severability.**

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

**11.05.110 Liability.**

(Amended by Ordinance No. 188647, effective November 17, 2017.)

- A. Nothing in this Title will be deemed to impose any liability upon any member of City Council or the City or any of its officers or employees.
- B. Every property owner shall be liable to persons injured or otherwise damaged by reason of the property owner's failure to keep the private property, sidewalks, planting strips and trees fronting or upon such private property in a safe condition so as not to be hazardous to public travel.
- C. Furthermore, every property owner shall be liable to the City of Portland for all expenses, including attorney fees, incurred by the City in defense of or paid by the City in settlement or satisfaction of any claim, demand, action or suit brought by reason of that property owner's failure to satisfy the obligations imposed by this Title.

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**CHAPTER 11.10 - ADMINISTRATION OF  
THIS TITLE**

**Sections:**

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

**11.10.010 Code Administration and Duties Performed.**

(Amended by Ordinance No. 191030, effective November 11, 2022.) This Title is primarily implemented by two City officials; the City Forester and the Director of the Bureau of Development Services (BDS Director). The Responsible Engineer has a role as described below in the resolution of infrastructure conflicts within the public streets and city-owned easements. The roles for the Urban Forestry Commission and Appeals Board include major urban forest policy direction and hearing appeals of tree removal permits, as described in Chapter 11.20. The Code Hearings Officer adjudicates enforcement cases.

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

- A. City Forester. The City Forester shall be an arborist. The City Forester is responsible for:
  - 1. Administering the tree permit program for City, Street, and Private Trees per Chapter 11.40 and Programmatic Permits per Chapter 11.45;
  - 2. Reviewing development permits for compliance with City and Street Tree preservation and protection and Street Tree planting requirements per Chapter 11.50;
  - 3. Processing violations of this Title as stated in Chapter 11.70;
  - 4. Managing the Urban Forestry Program by:



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

**11.10.020 Determining What Regulations Apply.**  
(Amended by Ordinance No. 188816, effective March 16, 2018.)

- A. Determine whether the proposed activity will require a development permit.
1. If the proposal will require a development permit, the regulations of Chapter 11.50 may apply to the proposal. Chapter 11.50 will identify when its requirements apply. If those requirements do not apply, then the requirements of Chapter 11.40 will apply. Chapter 11.50 will also direct readers to other regulations relevant to the proposal. Tree preservation and tree removal proposed as part of a development permit must be reviewed and approved as part of the development permit, regardless whether the regulations of Chapter 11.50 apply or if the proposal is exempt from the regulations. Approved activities may not commence until issuance of the development permit.



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

**11.10.030 General Rules For Reading and Applying the Code Language.**

- A.** Reading and applying the code. When a conflict arises as a result of a particular tree situation spanning multiple chapters, the more specific provisions take precedence. When the conflict cannot be resolved by the more specific provision, the requirement that results in retaining the existing tree will prevail, except in cases where the public safety is jeopardized.
- B.** Terms.
1. Defining words. Words used in this Title have their dictionary meaning unless they are defined in Chapter 11.80, Definitions and Measurements. Words listed in the Definitions chapter have the specific meaning stated, unless the context clearly indicates another meaning.
  2. Tenses and usage.
    - a. Words used in the singular include the plural. The reverse is also true.
    - b. Words used in the present tense include the future tense. The reverse is also true.
    - c. The words "shall," "will," and "may not" are mandatory.
    - d. "May" is permissive.
    - e. "Prohibited" means that a particular activity is in violation of this Title.
    - f. When used with numbers, "At least x," "Up to x," "Not more than x" and "a maximum of x" all include x.
  3. Conjunctions. Unless the context clearly indicates otherwise, the following conjunctions have the following meanings:
    - a. "And" indicates that all connected items or provisions apply;

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- b.** "Either...or" indicates that the connected items or provisions apply singly, but not in combination.
- 4.** Lists. Lists of items that state "including the following," "such as" or similar language are not limited to just those items. The lists are intended to provide examples, but not to be exhaustive of all possibilities.

**11.10.040 Amendments to this Title.**

- A.** General.
  - 1.** Substantive amendments to this Title or amendments necessary to ensure conformance with other City Titles may be prepared by any bureau but will be coordinated by the Bureau charged with those responsibilities in the Title in consultation with the Bureaus of Planning and Sustainability, Parks and Recreation, Development Services, Environmental Services, Transportation and Water.
  - 2.** Technical corrections and matters of simple clarification may be prepared and approved by the Auditor or City Attorney.
- B.** Urban Forestry Commission (UFC). The UFC shall hold at least one public hearing for proposed amendments to this Title before making a recommendation on such an amendment. A hearing is not required for technical corrections or amendments needed to ensure conformance with other City Titles.
- C.** Planning and Sustainability Commission (PSC). The PSC may provide input on the proposed amendments to the UFC. The PSC shall hold a public hearing for any proposed substantive amendments to Chapter 11.50 Trees In Development Situations, Chapter 11.60 Technical Specifications, or Chapter 11.70 Enforcement. A hearing is not required for technical corrections or amendments needed to ensure conformance with other City Titles.
- D.** Notification Requirements.
  - 1.** UFC or PSC Hearing. Notice of any public hearing held by the UFC or PSC to consider a proposed substantive amendment to this Title shall be mailed to Metro, the Oregon Department of Transportation, all recognized organizations, affected bureaus and interested persons who have requested such notice. Notice shall also be published in a recognized newspaper and mailed at least 30 days prior to the hearing.
  - 2.** The Urban Forestry Commission shall additionally be notified of any amendment needed to ensure conformance with other City titles or technical corrections a minimum of 14 days prior to a final decision.

3. City Council Hearing. Notice of the hearing shall be mailed to those who testified at the UFC hearing, either in person or in writing, or those who requested such notice. If hearings were not held by the UFC or PSC, notice shall be mailed to all affected bureaus and persons who have requested such notice. Notice shall be published in a recognized newspaper and mailed at least 14 days prior to the hearing.
  4. The notifications required by this Section shall be the responsibility of the Bureau coordinating the amendment or technical correction.
- E. City Council. The City Council shall hold at least one public hearing on all amendments that are not considered technical. City Council makes the final decision on amendments, after considering the recommendations of the UFC and PSC and after hearing testimony from the public.
- F. Declaring an emergency. City Council may declare an emergency in accordance with the City Charter and amend this Title and associated Administrative Rules without following the process set out in this Section.

**11.10.050 Interagency and Intergovernmental Agreements.**

The City Forester or BDS Director in the course of their duties in implementing this Title may enter into agreements with other bureaus or public agencies. These interagency and intergovernmental agreements may allow the BDS Director or City Forester to delegate powers granted within this Title to or provide services to other bureaus or public agencies, subject to the requirements outlined in the agreement. Such agreements may not grant or delegate powers or authority not already assigned to the City Forester or BDS Director. Neither the BDS Director nor the City Forester may enter into any agreement under this Section that requires expenditure of City funds, unless such funds have been appropriated by the Council through the budget process.

**11.10.060 Performance Guarantees.**

- A. Applicability. The City Forester or BDS Director may require performance guarantees when an owner, applicant, or responsible person defers a planting requirement, as an assurance for performance path root protection methods, or when a violation has occurred and there is uncertainty regarding the extent of a particular tree injury.
- B. Types of guarantees. Guarantees may be in the form of a performance bond payable to the City in cash, by certified check, time certificate of deposit, irrevocable letter of credit, or other form acceptable to the City. Indemnity agreements may be used by other governmental agencies. Guarantees shall be accompanied by a contract. The form of the guarantee and contract shall be approved by the City Attorney. The City Forester and BDS Director are each authorized to accept and sign the contract for the City, and to accept the guarantee.

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- C.** Amount of guarantee. The amount of the performance guarantee shall be equal to at least 110 percent of the estimated cost of performance as described below. The owner, applicant or responsible party shall provide written estimates by three contractors with their names and addresses. The estimates shall include as separate items all materials, labor, and other costs of the required action.
- 1.** Planting deferral. When tree planting is deferred, the cost of performance is equivalent to the payment in lieu for any trees to be planted and maintained for a 2 year period.
  - 2.** Alternate root protection method assurance. If assurances are required for alternate root protection methods, the cost of performance is the estimated cost for removing the tree, plus an equivalent payment in lieu for planting to meet the tree standards in Chapter 11.50 Trees in Development Situations.
  - 3.** Violation remedy. Should an injury result to a protected tree, and where the City Forester determines that the tree may still be viable, the property owner or responsible party may submit a performance guarantee in lieu of providing for an arborist treatment regimen or removing the tree in accordance with the provisions in Chapter 11.70. If assurances are allowed in these cases, the cost of performance is the estimated cost for removing the tree, plus an equivalent payment in lieu for replacing the tree based on mitigating at an inch for inch equivalent.
- D.** Completion. An inspection and approval of the action or improvement covered by the performance guarantee is required before the performance guarantee is returned. The inspection will be conducted by the appropriate City bureau that holds the guarantee. If the action or improvement is not completed satisfactorily within the stated time limits, the City may have the necessary action or improvement completed and seek reimbursement for the work from the performance guarantee. Any remaining funds will be returned to the owner, applicant, or responsible party.

### **11.10.070 Fees.**

(Amended by Ordinance No. 189514, effective June 21, 2019.)

- A.** Generally. The City Council may establish and amend by ordinance permit, inspection, review, enforcement, in-lieu of planting or preservation, appeal and other fees as necessary to sustain the development permit, tree permit, and other Development Service or Urban Forestry programs. All fees, charges, civil penalties, and fines established by authority of this Title will be listed in the Portland Policy Documents.
- B.** Fees in lieu of planting or preserving trees. Where allowed by other provisions of this Title, a fee may be paid into the Tree Planting and Preservation Fund in lieu of planting or preserving trees. The fee per tree is the entire cost of establishing a new

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tree in accordance with standards described by the City Forester. The cost includes materials and labor necessary to plant the tree, and to maintain it for 5 years. The fee will be reviewed annually and, if necessary, adjusted to reflect current costs. See Section 11.15.010 for more information on the Tree Planting and Preservation Fund.

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**CHAPTER 11.15 - FUNDS AND  
CONTRIBUTIONS**

**Sections:**

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

**11.15.010 Tree Planting and Preservation Fund.**

(Amended by Ordinance No. 189514, effective June 21, 2019.)

- A.** Purpose. The purpose of the Tree Planting and Preservation Fund is to facilitate tree planting, to ensure mitigation or tree replacement when tree preservation or tree density standards are not met on a particular site, and to advance the City's goals for the urban forest and intend to achieve equitable distribution of tree-related benefits across the City.
- B.** Expenditures. Money in the Tree Planting and Preservation Fund may be used only as follows:
  - 1.** To plant trees on public or private property, including streets. Planting trees includes the cost of materials and labor necessary to install and establish a tree for a 5 year period;
  - 2.** To purchase conservation easements for the perpetual retention of trees and tree canopy. Such conservation easements shall allow the City to replace trees that are removed when they die or become dangerous; and
  - 3.** To acquire land to permanently protect existing trees or groves.
- C.** Contributions. Contributions to the Tree Planting and Preservation Fund may occur through a number of means, including:
  - 1.** Payment made in lieu of tree replacement as part of a tree permit issued as stated in Chapter 11.40;
  - 2.** Payment made in lieu of preservation or planting where site or street characteristics or construction requirements make it infeasible to meet the requirements of Chapter 11.50;
  - 3.** Payment of restoration fees for enforcement actions for Private Trees; and
  - 4.** Voluntary contributions.
- D.** Administration of the Tree Planting and Preservation Fund. The Tree Planting and Preservation Fund is administered by the City Forester, maintained in a dedicated

separate account, and is independent of the general fund. Any balance in the Tree Planting and Preservation Fund will be carried forward into subsequent fiscal years.

**11.15.020 Urban Forestry Fund.**

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

**11.15.030 Charitable Contributions.**

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

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### **11.15.040 Annual Report.**

(Amended by Ordinance No. 189514, effective June 21, 2019.) The City Forester will provide an annual report to the Urban Forestry Commission and City Council at the end of each fiscal year. The report will include any charitable contributions received, as well as fund revenues collected and spent and the end balance in each fund. The report should also include recommendations for future expenditures of the funds and means to optimize those expenditures in the upcoming fiscal year.

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



**CHAPTER 11.20 - URBAN FORESTRY  
PROGRAM**

**Sections:**

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

**11.20.010 Purpose.**

The field of urban forestry has as its objective the cultivation and management of trees and related plants for their present and potential contribution to the physiological, sociological and economic well being of urban society. Inherent in this function is a comprehensive program designed to establish policies, goals and objectives, and implementing actions, and to educate the urban populace on the role of trees and related plants in the urban environment. In its broadest sense, urban forestry is one essential component of a multi-managerial urban system that includes neighborhoods and watersheds within the City, wildlife habitats, outdoor recreation opportunities, landscape design, green infrastructure, air filtering and greenhouse gas capture, recycling of municipal vegetative wastes and tree care in general.

**11.20.020 The Urban Forestry Commission.**

(Amended by Ordinance No. 188647, effective November 17, 2017.)

- A.** Membership. The Urban Forestry Commission consists of eleven members who have demonstrated an interest in the protection and enhancement of the urban forest, appointed by the Mayor in consultation with the Commissioner of Parks and Recreation and confirmed by the City Council. Women and multi-cultural groups shall be represented. At least three members shall have experience and expertise in arboriculture, landscape architecture or urban forestry. One member shall be on the board of a non-profit organization that has a demonstrated direct interest in the urban forest, who is not a City employee. The remaining seven members, insofar as possible, shall represent diverse geographic areas, interests, and expertise of the community.
- B.** Terms. Members will serve without compensation for terms of 4 years and may be reappointed for one additional consecutive term. After serving two consecutive terms, at least 1 year shall elapse before a member may again be reappointed to the Commission. Notwithstanding the limitations of this Section, a member of the Commission will continue to serve until the member's replacement is appointed.
- C.** Rules of order. The Urban Forestry Commission will elect its own chair and adopt such rules of procedure as it deems necessary to the conduct of its duties. Unless otherwise stated in the rule, all rules are effective upon adoption by the Commission

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and shall be filed in the office of the City Forester and in the Portland Policy Documents repository described in Chapter 1.07.

- D.** Meetings. The Commission will meet at least ten times per year and may meet more often.
- E.** Duties. The Commission is responsible for carrying out the following duties:
  - 1.** Providing assistance in the development, periodic reviews, and updates to the Urban Forest Plan, and submitting said plan updates to the City Council for approval.
  - 2.** Reviewing and providing input on plans, policies, and projects developed pursuant to other City Code provisions which contain elements or which affect matters related to urban forestry and other matters to ensure that the policies of the Urban Forest Plan are fully considered.
  - 3.** Advising the City Forester, the Director and Commissioner-in-Charge of the Bureau of Parks and Recreation, and Citizen’s Budget Advisory Committee on the preparation and contents of the annual Forestry Division budget request.
  - 4.** Considering and making recommendations to the City Council pertaining to:
    - a.** Proposed amendments to this Title;
    - b.** Heritage Tree nominations; and
    - c.** Other City bureau budget proposals that may substantially affect programs relating to trees and the urban forest.
  - 5.** Preparation of an annual report which specifically addresses the relations with and concerns of the various City bureaus and other matters brought forward by the City Forester. The report will include an evaluation of the opportunities and barriers to effective management of the urban forest, and assessment of progress of these issues identified in prior annual reports.

**11.20.030 The Urban Forestry Appeals Board.**

(Amended by Ordinance No. 191030, effective November 11, 2022.)

- A.** Membership. The Urban Forestry Appeals Board consists of five members representing diverse interests of the Urban Forestry Commission, selected by a majority of the Commission. Members will serve for terms not to exceed their membership in the general Commission and may be reappointed.

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- B.** Rules of order. The Urban Forestry Appeals Board may elect its own chair and propose rules of procedure as it deems necessary to the conduct of its duties. The Commission will consider and adopt such rules upon majority vote. All rules become effective upon adoption by the Commission and shall be filed in the Portland Policy Documents repository described in Chapter 1.07.
- C.** Meetings. The Appeals Board will meet as required to respond and to hear appeals within the time allotted to appeals as described in this Title. Appeal hearings are open to the public.
- D.** Duties. The Appeals Board is responsible for reviewing and deciding appeals of tree permit decisions as authorized in this Title.

**11.20.040 Technical Assistance.**

When requested by the Urban Forestry Commission and Commissioner of Parks and Recreation, the City may retain the services of a professional review panel of not more than three members, either foresters, arboriculturists, landscape architects or some combination thereof to advise the Commission on the efficiency of proposed actions and planting schemes. At least one member of this panel should be very familiar with Portland. The City Forester will present a list of qualified professionals to the Urban Forestry Commission for its review and selection. A member of the professional review panel may not serve if the member has a conflict of interest.

**11.20.050 The Urban Forest Plan.**

- A.** Purpose. The Urban Forest Plan (the Plan) establishes a comprehensive framework of goals, policies, and actions to guide City management activities and decisions over the short and long term. The plan will be implemented through the individual and collective works of the City Forester and other City bureaus, agencies, citizens, organizations and other groups.
- B.** Roles. The City Forester, in consultation with the Urban Forestry Commission and City bureaus, is responsible for coordinating the development, update, and implementation of the Urban Forest Plan. Working groups made up of representatives of those bureaus and groups who contribute to the management of the City's urban forest will be formed to develop citywide action plans to implement the Plan, and to monitor and report on progress of those actions.
- C.** Updates. The Plan will periodically, and at least every 10 years, be reviewed and updated to respond to changes in the condition of the urban forest, changes in city policy or changes to applicable regulatory mandates.

**11.20.060 Heritage Trees.**

(Amended by Ordinance Nos. 188278 and 191030, effective November 11, 2022.)

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

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2. In an emergency, when the City Forester is unavailable, pruning only what is necessary to abate an immediate danger may be performed without authorization by the City Forester. Any additional work shall be performed under the provisions of this Section.

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**CHAPTER 11.30 - TREE PERMIT  
PROCEDURES**

**Sections:**

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

**11.30.010 Purpose.**

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

**11.30.020 Description of Tree Permits.**

(Amended by Ordinance No. 191030, effective November 11, 2022.)

**A.** Generally. Tree permits are required for tree-related activities not associated with:

1. Heritage Trees (see Chapter 11.20);
2. Programmatic Permits (see Chapter 11.45); or
3. Tree plans or activities that require a development permit (see Chapter 11.50).

**B.** Types of Permits.

There are two types of tree permits, A and B. This Chapter sets out the procedures for each permit type, including when public notice and opportunity for public appeal are required. Applications for activities subject to both a Type A and Type B review factors will be processed as a Type B permit. When multiple trees are included in a single permit each tree will be reviewed using the applicable Type A or Type B review factors as appropriate. The type of permit may be modified during the course of the review when the City Forester finds that the standards or review factors are not met or when the approved scope of the tree activity is changed. For example, a Type A tree permit application to remove a dangerous tree may be modified to a Type B removal request when the City Forester finds the tree is not dangerous. Conversely, the City Forester may modify a Type B request to remove a Street Tree by granting a Type A pruning permit instead of allowing the removal. The standards and review factors for granting Type A or B permits are in Chapter 11.40.

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

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

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

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

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

**11.30.030 Applications.**

(Amended by Ordinance No. 191030, effective November 11, 2022.)

**A. Applications for Tree Permits shall:**

1. Be made in writing or electronically upon forms furnished by the City;
2. Be legible, accurate, and contain sufficient information in order to evaluate the request; and
3. Be accompanied by the correct fee.

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- B.** A separate application is required for each site and each activity, such as planting, pruning, or removal.
- C.** Marking trees to be removed. Applicants for permits for tree removal shall mark each tree proposed for removal by tying or attaching yellow tagging tape around the trunk of the tree at 4.5 feet above ground level.
- D.** Consent to site access. By submitting an application for a tree permit, the owner and applicant agrees that authorized City representatives may enter the site during business hours for the purpose of conducting inspections related to the tree permit request.
- E.** Authority. An applicant will be authorized to apply for the Tree Permit, as described below:
  - 1.** City Trees. For City Trees, only the Bureau that owns the site may submit an application. Where the City is managing trees on lands not owned by the City, the Bureau assigned to manage or care for trees, the owner or the agent authorized to represent the property owner may submit the application.
  - 2.** Street Trees. The applicant shall be the owner of the adjacent property or be authorized by the owner of the adjacent property where the Street Tree will be planted, pruned or removed. Exceptions to this requirement include:
    - a.** The Bureau of Environmental Services shall act as applicant for permits for Street Trees in greenstreet facilities.
    - b.** The Bureau of Transportation shall act as applicant for permits for Street Trees in center medians.
    - c.** The City Forester may plant, prune or remove Street Trees without obtaining the authorization of the adjacent property owner.
    - d.** Public agencies operating under the conditions of a Programmatic Tree Permit are not required to obtain the adjacent owner's consent for tree-related work on streets.
  - 3.** Private Trees. The applicant shall be the owner of property where the tree is located or be authorized by the owner. For trees that straddle property lines, the owners of all properties where the tree is located shall authorize the application. For commonly held tracts such as open space or private street tracts, the application shall be submitted by the agent or parties authorized to represent the shared ownership interest in the tract. It is the applicant's responsibility to obtain the appropriate consent for tree permit applications.



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4. City, Street and Private Trees within easements, or addressed by deed restrictions or other agreements. Any person having or asserting the right to remove trees under the terms of an easement, deed restriction or other agreement shall comply with the provisions of this Title. An easement holder, beneficiary of a deed restriction, or other person seeking to remove a tree on the property of another under an agreement is authorized to apply for permits or approvals required by this Title. The owner of a servient tenement, the grantor of a deed restriction or other person who by agreement has authorized another to possess, occupy or use property owned by the person is authorized to apply for permits or approvals required by this Title. The presence of an easement, deed restriction or other agreement does not change the type of tree. A tree remains either a City Tree, a Street Tree or a Private Tree.

**11.30.040 Procedure for Type A Permits.**

(Amended by Ordinance Nos. 188278 and 191030, effective November 11, 2022.) Type A permits are technical determinations regarding the facts of a particular request, and applications of city standards to ensure that work is performed in accordance with best management practices to protect trees, the public, or public infrastructure, and to ensure tree replacement. Type A permits are reviewed administratively by the City Forester. There is no public notice, and only the applicant may appeal the decision.

**A. Application.**

1. Generally. Applications for a Type A Tree Permit shall meet the requirements of Section 11.30.030, Applications.
2. Additional information required.
  - a. If the City Forester requires additional information to review an application, the City Forester will send a notice to the applicant requesting the additional information.
  - b. The applicant will have a maximum of 30 days from the date of the City Forester's notice to submit the additional information.
  - c. If the additional information is not received by the City Forester within 30 days from the date of the City Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

**B. Decision by the City Forester.**

1. The City Forester's decision shall be based on an evaluation of the facts and applicable standards and review factors in Chapter 11.40.

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

### C. Administrative Review

1. Whenever a decision on a tree permit has been made under this Chapter, the applicant or representative may request that the decision be reviewed by the City Forester. The applicant or representative must submit a written request on forms prescribed by the City, to the City, within 14 days of the date of the decision. The City Forester, as applicable, may extend this requirement for good cause shown. Such review will be conducted by the City Forester. The applicant or representative requesting such review will identify how the City Forester erred in applying the standard or review factors. Following the review, the City Forester will issue a written determination.

### D. Appeal to Urban Forestry Appeals Board. The applicant may appeal the City Forester's administrative review decision on a tree permit. Appeals shall be:

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

### E. Appeal process.

1. Scheduling the appeal hearing. The appeal hearing will be scheduled within 45 days of the date the appeal was filed. However, the applicant may request the hearing at a later time.
2. Notice. Notice of the appeal hearing will be sent to the applicant at least 14 days before the hearing.

3. Hearing.
  - a. Appeals are heard by the Urban Forestry Appeals Board (Appeals Board).
  - b. The Appeals Board will consider the application against the applicable standards or review factors, taking into consideration information provided by the applicant, appellant and City staff, and any observations made by members of the Appeals Board if they visit the site.

**F. Appeals Board Decision.**

1. The Appeals Board may affirm or reverse the City Forester's decision.
2. The Appeals Board will give due deference to the professional judgment of the City Forester, and will reverse or remand the City Forester's decision only upon a finding that the City Forester's decision is not supported by substantial evidence, or upon a finding that the City Forester's decision was arbitrary or capricious, an abuse of discretion or otherwise was not in accordance with the provisions of this Title.
3. The appeal decision of the Urban Forestry Appeals Board is final and may not be appealed to another review body within the City.

**11.30.050 Procedure for Type B Permits.**

(Amended by Ordinance Nos. 188278 and 191030, effective November 11, 2022.) Type B permits involve the consideration of relevant technical and qualitative factors to prevent risks to public health and safety or significant undue impacts on neighborhood character, and to ensure that the impacts of tree removal are mitigated. Type B permits are reviewed administratively by the City Forester, and the decision may be appealed to the Urban Forestry Appeals Board by the applicant and any person adversely affected or aggrieved by the decision.

**A. Application.**

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

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

### **B.** Decision by the City Forester.

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

### **C.** Administrative Review

- 1.** Whenever a decision on a tree permit has been made under this Chapter, the applicant or representative may request that the decision be reviewed by the City Forester. The applicant or representative must submit a written request on forms prescribed by the City, to the City, within 14 days of the date of the decision. The City Forester, as applicable, may extend this requirement for good cause shown. Such review will be conducted by the City Forester. The applicant or representative requesting such review will identify how the City Forester erred in applying the standard or review factors. Following the review, the City Forester will issue a written determination.

### **D.** Appeal to the Urban Forestry Appeals Board. The applicant may appeal the City Forester's Administrative Review decision. In addition, when public notice is

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required per Table 30-1, the neighborhood association or any other person may also appeal the decision. Appeals shall be:

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

**E.** Appeal process.

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

**F.** Appeals Board Decision.

1. The Appeals Board may affirm or reverse the City Forester's decision, or remand the decision to the City Forester to determine appropriate mitigation.

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2. The Appeals Board will give due deference to the professional judgment of the City Forester, and will reverse or remand the City Forester's decision only upon a finding that the City Forester's decision is not supported by substantial evidence, or upon a finding that the City Forester's decision was arbitrary or capricious, an abuse of discretion or otherwise was not in accordance with the provisions of this Title.
3. The appeal decision of the Urban Forestry Appeals Board is final and may not be appealed to another review body within the City.

**11.30.100 Regulations That Apply After Permit Approval.**

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

**CHAPTER 11.40 - TREE PERMIT  
REQUIREMENTS (NO ASSOCIATED  
DEVELOPMENT)**

**Sections:**

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

**11.40.010 Purpose.**

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

**11.40.020 When a Tree Permit is Required.**

(Amended by Ordinance Nos. 187216, 188278 and 191030, effective November 11, 2022.)  
A tree permit is required for all trees in the City of Portland as further described below, unless the activity is exempt from the requirements of this Chapter as specified in Section 11.40.030.

- A.** Street Trees. Street trees of any size are regulated by this Chapter unless otherwise specified in Title 33. See Table 40-1 or 40-2 for reference.
- B.** City Trees. City trees 3 or more inches in diameter are regulated by this Chapter unless otherwise specified in Table 40-1.
- C.** Private Trees. Private trees 12 or more inches in diameter are regulated by this Chapter unless otherwise specified in Title 33. See Table 40-1 for reference. Trees required to be preserved by a condition of a land use review may be subject to other requirements. All applicable Zoning Code landscape requirements, including landscape buffers and parking lot landscaping, must be met on the site.
- D.** Emergency pruning or removal. Emergency pruning or removal of trees is regulated by this Chapter as follows:
  - 1.** If an emergency exists because the condition or location of a tree presents such a clear and present danger to structures or the public that there is

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insufficient time to obtain a tree permit, the hazardous portion of the tree may be removed without first obtaining a required tree permit.

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



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

<b>Overlay Zone or Plan District</b>	<b>Title 11 regulates the following[2]</b>		<b>Title 33 Zoning Code regulates the following</b>	
Environmental conservation and protection overlay zones “c” “p” See: 33.430.080	<b>Street</b> all <b>City</b> ≥ 3" <b>Private</b> ≥ 6"	<ul style="list-style-type: none"> <li>• Trees within 10 feet of buildings or attached structures</li> <li>• Nuisance species trees</li> <li>• Non-native non-nuisance trees</li> <li>• Dead, Dying, or Dangerous, or portions of trees, when they pose an immediate danger when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees</li> <li>• Trees projecting into a City-designated view corridor</li> </ul>	<b>Street</b> all <b>City</b> all <b>Private</b> all	<ul style="list-style-type: none"> <li>• Healthy native trees that do not meet the applicable Title 11 situations listed in this table</li> </ul>
Greenway overlay zones “n” “q” “g” “i” “r” See: 33.440.320	<b>Street</b> all <b>City</b> ≥ 3" <b>Private</b> ≥ 6"	<ul style="list-style-type: none"> <li>• Nuisance species trees</li> <li>• Dangerous trees</li> <li>• Trees landward of the greenway setback in “g” “i” “r” overlays</li> </ul>	<b>Street</b> all <b>City</b> all <b>Private</b> all	<ul style="list-style-type: none"> <li>• Native Trees</li> <li>• Non-native non-nuisance trees</li> <li>• Dead or dying trees</li> <li>• Trees not meeting the listed situations when located within or riverward of the greenway setback in “g” “i” “r” overlays</li> <li>• Trees not meeting the listed situations when located in “n” “q” overlays</li> </ul>
Pleasant Valley Natural Resources Overlay Zone “v” See: 33.465.080	<b>Street</b> all <b>City</b> ≥ 3" <b>Private</b> ≥ 6"	<ul style="list-style-type: none"> <li>• Trees within 10 feet of buildings or attached structures</li> <li>• Nuisance species trees</li> <li>• Non-native non-nuisance species trees</li> <li>• Dead, Dying, or Dangerous trees when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees</li> </ul>	<b>Street</b> all <b>City</b> all <b>Private</b> all	<ul style="list-style-type: none"> <li>• Healthy native trees that do not meet the applicable Title 11 situations listed in this table</li> </ul>
River environmental overlay zone “e” See: 33.475.405	<b>Street</b> all <b>City</b> ≥ 3" <b>Private</b> ≥ 6"	<ul style="list-style-type: none"> <li>• Street trees that are less than 3 inches in diameter that are non-native trees or nuisance species trees, and are located landward of the river setback and outside the riparian buffer area</li> </ul>	<b>Street</b> all <b>City</b> all <b>Private</b> all	<ul style="list-style-type: none"> <li>• All trees that do not meet the applicable Title 11 situations listed in this table</li> </ul>

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

Overlay Zone or Plan District	Title 11 regulates the following[2]		Title 33 Zoning Code regulates the following	
<p>Scenic Resource Overlay "s"</p> <p>Only applies to trees that are within the scenic corridor setback. See: 33.480.040 B.2.a.</p>	<p><b>Street</b> all <b>City</b> ≥ 3" <b>Private</b> ≥ 6"</p>	<ul style="list-style-type: none"> <li>• Trees within 10 feet of buildings or attached structures</li> <li>• Nuisance species trees</li> <li>• Dead, Dying, or Dangerous trees</li> <li>• Trees associated with the repair and maintenance of water, sewer or storm water lines</li> <li>• Trees within 20 feet of a public safety RF Transmission Facility</li> <li>• Street, City, or Private trees up to and including 12 inches diameter provided that replanting per 33.480.040.B.2.h(7) is met [3]</li> </ul>	<p><b>Street</b> ≥ 6" <b>City</b> ≥ 6" <b>Private</b> ≥ 6"</p>	<ul style="list-style-type: none"> <li>• Trees within the scenic corridor setbacks that do not meet the applicable Title 11 situations listed in this table</li> </ul>
<p>Cascade Station/Portland International Center Plan District See: 33.508.340</p> <p>Only applies to trees located in a "c" or "p" overlay</p>	<p><b>Street</b> all <b>City</b> ≥ 3" <b>Private</b> ≥ 6"</p>	<ul style="list-style-type: none"> <li>• Trees within 10 feet of buildings or attached structures</li> <li>• Nuisance species trees</li> <li>• Non-native non-nuisance species trees</li> <li>• Dead, Dying, or Dangerous trees when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees</li> <li>• Trees projecting into a City-designated view corridor</li> </ul>	<p><b>Street</b> all <b>City</b> all <b>Private</b> all</p>	<ul style="list-style-type: none"> <li>• Healthy native trees that do not meet the applicable Title 11 situations listed in this table</li> </ul>
<p>Columbia South Shore Plan District See: 33.515.262 &amp; 33.515.274</p> <p>Only applies to trees located in a "c" or "p" overlay</p>	<p><b>Street</b> all <b>City</b> ≥ 3" <b>Private</b> ≥ 6"</p>	<ul style="list-style-type: none"> <li>• Trees within 10 feet of buildings or attached structures</li> <li>• Nuisance species trees</li> <li>• Dead, Dying, or Dangerous trees when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees</li> </ul>	<p><b>Street</b> all <b>City</b> all <b>Private</b> all</p>	<ul style="list-style-type: none"> <li>• Healthy native trees that do not meet the applicable Title 11 situations listed in this table</li> <li>• Healthy non-native non-nuisance trees that do not meet the applicable Title 11 situations listed in this table</li> </ul>
<p>Johnson Creek Basin Plan District 33.537.125</p> <ul style="list-style-type: none"> <li>• Only applies to trees:</li> <li>• Within 20 feet of the Springwater Corridor lot line;</li> <li>• On a site with any portion in the special flood hazard area; and/or</li> <li>• On a site with any portion in the South Subdistrict.</li> </ul>	<p><b>Street</b> all <b>City</b> ≥ 3" <b>Private</b> ≥ 6"</p>	<ul style="list-style-type: none"> <li>• All Street Trees</li> <li>• Nuisance species trees</li> <li>• Trees within 10 feet of buildings, attached structures, or right-of-way improvements</li> <li>• Dead, Dying, or Dangerous trees</li> <li>• Trees associated with the repair and maintenance of water, sewer or storm water lines</li> <li>• Any other 6" to 12" tree provided that at least two trees are planted. [3]</li> </ul> <p>Trees removed within 20 feet of the Springwater Corridor must be replaced within 20 feet of the corridor</p>	<p><b>Street</b> n/a <b>City</b> ≥ 6" <b>Private</b> ≥ 6"</p>	<ul style="list-style-type: none"> <li>• Trees within 20 feet of the Springwater Corridor lot line; on a site with any portion in the special flood hazard area; and/or on a site with any portion in the South Subdistrict that do not meet the applicable Title 11 situations listed in this table</li> </ul>

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

**11.40.030 Exemptions.**

The following are exempt from the requirements of this Chapter:

- A. Heritage Trees. Heritage Trees are addressed in Chapter 11.20:
- B. Trees outside City Limits. Trees that are outside the City Limits, including "County Urban Pocket Areas."
- C. Programmatic permits. Activities carried out by public agencies operating under a programmatic permit per Chapter 11.45.

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

**11.40.040 City and Street Tree Permit Standards and Review Factors.**

(Amended by Ordinance Nos. 188278 and 191030, effective November 11, 2022.) Type A and B permit applications for tree related work affecting City or Street Trees shall be reviewed using the following applicable review factors and standards in accordance with the application procedures set forth in Chapter 11.30.

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

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

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

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

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

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1. Planting. Planting shall meet the specifications in Chapter 11.60 and the following:
  - a. Street Trees. If the City Forester determines that a proposed Street Tree planting is suitable for the space available, and that the species of the tree is appropriate for the location, then the City Forester will grant the permit.

The Responsible Engineer may require the City Forester to submit planting proposals in streets for review for the purpose of protecting existing utilities and sewer branches, and to ensure that the proposed trees are not likely to obstruct the visibility of drivers, cyclists or pedestrians.
  - b. City Trees. If the City Forester determines that a proposed planting on City property is of a species of tree appropriate for the site and that the applicant has the written consent of the City bureau to whom responsibility for the property has been assigned, the City Forester will grant the permit.
2. Pruning or root cutting. The City Forester will grant a permit for pruning of branches 1/2 inch or larger or cutting of roots 1/4 inch or larger if the applicant demonstrates to the City Forester's satisfaction that the pruning or root cutting will be performed in accordance with proper arboricultural practices, and that it will not adversely impact the health or structural integrity of the tree.
3. Other activities. A permit is required to attach permanent objects (e.g. lights, signs, or artwork) to a tree or its supports (e.g. guides, wires, stakes), or for any other type of activity the City Forester determines has the potential to harm a City or Street Tree. In reviewing these requests, the City Forester may impose limitations on the method, location, or duration of such activities.
4. Removal. Trees shall be replaced as indicated in Table 40-2. The City Forester will grant a permit to remove a tree if the City Forester determines that the proposed removal is exempt or allowed by Title 33, Planning and Zoning; and meets at least one of the following:
  - a. Dead trees. The tree is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, roots or branches exist to sustain life.
  - b. Dying trees. The tree is in an advanced state of decline because it is diseased, infested by insects, or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent



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- c. Whether the maintenance of the tree creates an unreasonable burden for the property owner; and
- d. The impact of removal and replanting on the neighborhood streetscape and any adopted historic or other design guidelines.
- e. Whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to new edge effects such as windthrow, sunscald, and unbalanced canopy.

**11.40.050 Private Tree Permit Standards and Review Factors.**

(Amended by Ordinance No. 191030, effective November 11, 2022.) Type A and B permit applications for tree related work affecting Private Trees shall be reviewed using the following applicable review factors and standards in accordance with the application procedures set forth in Chapter 11.30.

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

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

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

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

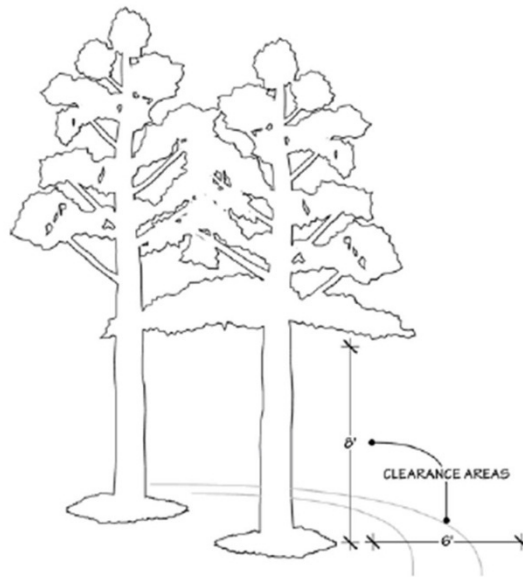
**A. Standards and Review Factors for Type A Permits for Private Trees.**

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

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- a. Exceptions. A permit is not required for pruning trees in the following situations:
- (1) Pruning trees located within 10 feet of a building or attached structure;
  - (2) Pruning coniferous trees that are within 30 feet of structures, when the structure is within the wildfire hazard zone as shown on the City's Wildfire Hazard Zone Map;
  - (3) Pruning to abate an immediate danger;
  - (4) Pruning for trail maintenance when not exceeding a height of 8 feet and a width of 6 feet as shown in Figure 40-1; or

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



- (5) Crown maintenance and crown reduction of trees within the Portland International Airport Plan District or Cascade Station/Portland International Center Plan District that project above or will, upon maturity project above the height limit delineated by the "h" overlay zone or are identified as attracting wildlife species of concern related to air traffic safety.



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- b.** Standards. The City Forester will grant a Type A Permit for pruning if the applicant demonstrates to the City Forester's satisfaction that the pruning will meet the following:

  - (1)** Pruning is limited to 5 native trees per calendar year per 10,000 square feet of site area;
  - (2)** An arborist shall prepare and submit a pruning plan and supervise or conduct the work. The pruning plan shall describe the nature and extent of the proposed pruning as necessary to ensure proper arboricultural practices are followed; and
  - (3)** Additional pruning may be allowed if the applicable criteria are met through an environmental review or natural resource review per Title 33, Planning and Zoning.
  
- 2.** Removal. Trees shall be replaced as indicated in Table 40-3. The City Forester will grant a permit to remove a tree if the City Forester determines that the proposed removal is exempt or allowed by Title 33, Planning and Zoning; and meets at least one of the following:

  - a.** Dead trees. The tree is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, roots or branches exist to sustain life.
  - b.** Dying trees. The tree is in an advanced state of decline because it is diseased, infested by insects, or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent spread of the infestation or disease to other trees or is imminently likely to become a danger or die. The City Forester may apply a condition of approval to the permit to require specific disposal methods for infected wood.
  - c.** Dangerous trees. The City Forester may evaluate the removal request by first evaluating practicable alternatives to the removal. If the City Forester finds either that the cost of the alternatives significantly exceeds the value of the tree, or that such alternatives will not substantially alleviate the dangerous condition, the City Forester will grant the permit.
  - d.** Nuisance species trees. The tree is listed on the "Nuisance Plant List".



- c.** Whether the tree’s crown, stem, or root growth habit has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees; and
- d.** Whether the removal will significantly affect public safety or neighborhood character based on the following:

  - (1)** The age, size, form, general condition, pruning history and any unique qualities or attributes of the trees;
  - (2)** The visibility of the trees from public streets and accessways;
  - (3)** The cumulative impacts of current and prior tree removals in the area; and
  - (4)** Whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to edge effects such as windthrow, sunscald, and unbalanced canopy.

**11.40.060 Tree Replacement Requirements.**

(Amended by Ordinance No. 191030, effective November 11, 2022.) Generally, the City Forester will require replacement of trees removed under a Tree Permit as specified in Subsection A. However, the City Forester may instead allow payment into the Tree Planting and Preservation Fund as specified in Subsection B., or may waive or reduce the replacement requirement as specified in Subsection C.

**A.** Tree replacement specifications

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

**B.** Payment into Tree Planting and Preservation Fund. When the City Forester determines that there is insufficient or unsuitable area to accommodate some or all of the replacement trees within the street planting area or site, the City Forester may

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require payment into the Tree Planting and Preservation Fund instead of requiring replacement trees. Payment is based on the adopted fee schedule.

- C. Waivers. The City Forester may waive or reduce the replacement requirement when the City Forester determines:
1. The abutting right-of-way and site already meet the tree density standards of Chapter 11.50; or
  2. That the full mitigation required by this Chapter would impose an unreasonable burden on the applicant.
  3. The mitigation would result in non-compliance with Title 33 Planning and Zoning.

**CHAPTER 11.45 - PROGRAMMATIC TREE  
PERMITS**

**Sections:**

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

**11.45.010 Purpose.**

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

**11.45.020 Application Requirements.**

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

**11.45.030 Procedures.**

(Amended by Ordinance Nos. 188278 and 188647, effective November 17, 2017.)

- A.** Requesting Additional Information.
  - 1.** If the City Forester requires additional information to review an application, the City Forester will send a notice to the applicant requesting the additional information.

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2. The applicant will have a maximum of 30 days from the date of the City Forester's notice to submit the additional information.
  3. If the additional information is not received by the City Forester within 30 days from the date of the City Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.
- B.** Notice. When the City Forester determines that the application contains sufficient information, the City Forester shall mail notice by US mail or electronically to all recognized organizations within the geographic area affected by the permit request. The notice shall announce the permit application and provide instructions for obtaining additional information, providing comments or to request notification of the City Forester's decision.
- In addition to the public notice, the City Forester will provide a summary of pending and approved Programmatic Permits to the Urban Forestry Commission.
- C.** Decision. The City Forester shall take action to approve, approve with conditions, or deny a Programmatic Permit request within 120 days of determining an application contains sufficient information. The decision will be based on an evaluation of the request against the applicable review factors in Section 11.45.040.
- D.** Permit limitations.
1. Time Limits. The City Forester may approve a Programmatic Permit for a period of up to 5 years. An annual report from the applicant to the City Forester on activity conducted under the permit is required.
  2. Tree Size Limits.
    - a. The programmatic permit will not allow the removal of healthy non-nuisance species trees 6 or more inches in diameter, except as provided in Subsection D.2.b., below.
    - b. If an applicant requests removal of healthy non-nuisance species trees 6 or more inches in diameter, an opportunity for public appeal shall be provided in accordance with Subsection F.2.b.
    - c. For any request, the City Forester may further limit allowed tree removal in order to meet the review factors in Section 11.45.040.
  3. Tree Work Limits. All work conducted under a programmatic permit must be conducted in accordance with proper arboricultural practices.
- E.** Revocation. The City Forester may revoke a Programmatic Permit upon finding the applicant is not adhering to the limitations imposed or is acting beyond the activities

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

**F. Appeals.**

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

**11.45.040 Review Factors.**

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

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

**11.45.050 Permit Specifications.**

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

- A.** Duration of permit;

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



**CHAPTER 11.50 - TREES IN DEVELOPMENT  
SITUATIONS**

**Sections:**

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

**11.50.010 Purpose.**

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

**11.50.020 When a Tree Plan is Required.**

(Amended by Ordinance No. 188816, effective March 16, 2018.) A tree plan is required in conjunction with all development permits, unless there are no Private Trees 12 inches or more in diameter, no City Trees 6 inches or more in diameter, and/or no Street Trees 3 inches or more in diameter, and the site or activity is exempt from Section 11.50.050 On-Site Tree Density Standards; and Section 11.50.060 Street Tree Planting Standards. If multiple development permits are required for a development proposal, including demolitions and subsequent construction, the same Tree Plan shall be included with each permit. For tree removal when no development permit is required, following completion of the development permit, or when tree preservation does not apply per Subsection 11.50.040 A.1., see Chapter 11.40.

**11.50.030 Development Impact Area Option For Large Sites and Streets.**

(Amended by Ordinance No. 188278, effective April 14, 2017.) Where development is proposed on a site larger than one acre or where work is occurring in the street and is not associated with an adjacent development site, the applicant may choose to establish a development impact area. For sites using the development impact area option, tree preservation requirements shall be based on the trees within the development impact area and tree density will be based on meeting Option A as applied only to the area within the

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development impact area. Trees may be planted to meet tree density requirement elsewhere on the site.

### **11.50.040 Tree Preservation Standards.**

(Amended by Ordinance Nos. 187675, 188278, 188816, 188959, 189078, 189795, 190200 and 191030, effective November 11, 2022.)

#### **A.** Where these regulations apply.

1. This Section applies to trees within the City of Portland and trees on sites within the County Urban Pocket Areas in the following situations. On sites where these regulations do not apply, tree removal is subject to the requirements of Chapter 11.40, Tree Permit Requirements.
  - a. On sites. Development activities with any ground disturbance or a construction staging area greater than 100 square feet on unpaved portions of the site within the root protection zone, as defined in Subsection 11.60.030 C.1.a., of one or more Private Trees 12 or more inches in diameter and/or one or more City Trees 6 or more inches in diameter.
  - b. In streets. Development activities with any ground disturbance or construction staging not limited to existing paved surfaces where there are one or more Street Trees 3 or more inches in diameter.
2. Any Heritage Trees and trees required to be preserved through a land use condition of approval or tree preservation plan cannot be removed using the provisions in this Chapter, but may be counted toward the tree preservation requirements of this Section.

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

1. Private trees on portions of sites located within an IH zone.
2. Private trees on sites that are less than 5,000 square feet in area.
3. Private trees on sites that have existing or proposed building coverage of 85 percent or more.
4. Trees that are dead, dying, dangerous, or a nuisance species, as documented in a Tree Plan per Subsection 11.50.070 B. These are subtracted from the total number of trees to be addressed by the standards.
5. Private trees exempted from this standard by a land use decision.

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6. Tree preservation requirements approved in a land division or planned development review under Title 33, Planning and Zoning and the requirements of that review are still in effect.
  7. Repair and replacement of existing fences and decks that are not changing in footprint or length when no trees are to be removed as a part of the project.
- C. Tree Preservation Requirement. Any trees preserved shall be protected in accordance with the specifications in Section 11.60.030. The regulations for Private Trees in Subsection 11.50.040 C.1. sunset after December 31, 2024. After December 31, 2024 the regulations in effect will be those in effect on January 1, 2015.
1. Private Trees.
    - a. General tree preservation.
      - (1) Retention. An applicant shall preserve and protect at least 1/3 of the non-exempt trees 12 inches and larger in diameter located completely or partially on the development site, unless mitigation occurs per Subsection 11.50.040 C.1.a.(2) below. Any fractional result will be rounded up to the next whole number. Retaining trees at least 6 and less than 12 inches in diameter that are documented in a report prepared by an arborist or landscape professional to be Garry Oak (*Quercus garryana*), Pacific Madrone (*Arbutus menziesii*), Pacific Yew (*Taxus brevifolia*), Ponderosa Pine (*Pinus ponderosa*), Western Redcedar (*Thuja plicata*), or Western Flowering Dogwood (*Cornus nuttallii*) species are not included in the total count of trees on the site but may be used toward meeting the preservation standard.
      - (2) Mitigation. For each tree not preserved and protected below the 1/3 requirement, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. For trees not preserved and protected at least 12 inches and less than 20 inches in diameter the mitigation fee is the cost of (2) two-inch diameter replacement trees. For trees not preserved and protected at least 20 inches in diameter or greater the mitigation fee is the cost per diameter inch of tree not preserved and protected. The fee is calculated using the per-inch Restoration Fee for Tree Removal in the adopted fee schedule for Title 11. In cases where more than one tree is not preserved and protected in excess of that allowed by Subsection 11.50.040 C.1.a.(1), the mitigation payment

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required to meet the 1/3 retention standard is based on the largest tree or trees proposed for removal.

- (3) Removal. Each tree not preserved and protected may be removed. Any trees removed shall be removed in accordance with the specifications in Section 11.60.050.

**Table 50-1  
Required Mitigation**

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

- b. Preservation of trees 20 inches or greater.
  - (1) Retention. An applicant shall preserve and protect all non-exempt trees 20 inches in diameter or greater located completely or partially on the development site, unless mitigation and notice occurs per Subsections 11.50.040 C.1.b.(2) and 11.50.040 C.1.c., below. Retention or mitigation of these trees may also be used to meet the standards for general tree preservation in Subsection 11.50.040 C.1.a. above.
  - (2) Mitigation. For each tree 20 or more inches in diameter not preserved and protected, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. The fee is calculated using the per-inch Planting and Establishment Fee in Lieu for development in the adopted fee schedule for Title 11.
  - (3) Removal. Each tree not preserved and protected may be removed. Any trees removed shall be removed in accordance with the specifications in Section 11.60.050.
- c. Notice for trees 36 inches or greater not preserved and protected. If a tree 36 inches or greater in diameter is not preserved and protected as allowed by Subsection 11.50.040 C.1.b.(2) above, the property owner or the property owner’s representative must post a notice on the site and send a notice to the recognized Neighborhood Association and District Coalition in which the site is located. The notices are for notification purposes only. The notices do not

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provide for public comment on the proposal or for appeal of the proposal. The property owner or the property owner's representative must provide a signed certification to the Bureau of Development Services that a notice was posted on the site and a notice was sent to the Neighborhood Association and District Coalition. The development permit may not be issued until the business day following the day the notification period is completed.

- (1)** The posted notice must:
    - (a)** Be posted on the site for at least 45 calendar days prior to development permit issuance;
    - (b)** Be posted within 10 feet of the street lot line nearest the tree or trees to be removed;
    - (c)** Include the date of posting and the date of the end of the notification period;
    - (d)** Include a site plan at least 8.5 x 11 inches in size showing the location and description of the tree(s) to be removed including diameter inch size(s); and
    - (e)** Include contact information for the property owner or the property owner's representative.
  - (2)** The notices to the Neighborhood Association and District Coalition must:
    - (a)** Be e-mailed or mailed to the Neighborhood Association and District Coalition using the contact information maintained by the Office of Community & Civic Life. If mailed, the notice must be sent via certified or registered mail. The date of the e-mail or the mailing must be at least 45 calendar days prior to development permit issuance;
    - (b)** Include a description of the tree(s) to be removed including diameter inch size(s); and
    - (c)** Include contact information for the property owner or the property owner's representative.
- d.** Exemption of tree preservation mitigation payments for affordable housing developments. Projects are exempt from the mitigation requirements in Subsection 11.50.040 C.1.b.(2) if the development will be an affordable housing development approved for system

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development charge exemptions under Section 30.01.095. The amount of the mitigation exemption shall be pro-rated to a percentage equal to the percentage of dwelling units on the development site that are approved for the systems development charge exemption in Section 30.01.095. The Director of the Portland Housing Bureau may adopt administrative rules for the administration of Subsection 11.50.040 C.1.d.

- e. Exception for Capital Improvement Projects. Trees on private property that are part of a capital improvement project and within the development impact area are regulated as City and Street Trees.

### 2. City and Street Trees.

#### a. General Tree Preservation

- (1) Retention. The City Forester will identify potential impacts and opportunities to preserve and protect existing trees, as well as any measures required to protect trees on site, on adjacent sites, or in the street. Any work on any Street Tree or City Tree must be approved by the City Forester.
- (2) Mitigation. Any required mitigation specified below shall occur on the site, in the street planter strip, elsewhere on City property or in the street, or as a payment into the Tree Planting and Preservation Fund. The City Forester may reduce or waive the following mitigation requirements.
  - (a) Approved Street Tree removal in conjunction with improvements to partially or fully unimproved streets. Each tree at least 12 inches in diameter that is allowed to be removed shall be replaced with at least one tree. Trees planted to meet Street Tree Planting Standards will be credited toward meeting this requirement.
  - (b) Any other Street Tree or City Tree allowed to be removed that is 6 or more inches in diameter shall be replaced with at least one tree in addition to trees required to meet required tree density or Street Tree planting standards.
- (3) Removal. Any trees approved to be removed by the City Forester may be removed. Any trees removed shall be removed in accordance with the specifications in Section 11.60.050.

**11.50.050 On-Site Tree Density Standards.**

(Amended by Ordinance Nos. 187675, 188278, 188959, 190200 and 191030, effective November 11, 2022.)

- A.** Where these Regulations Apply. This Section applies to sites within the City of Portland and the County Urban Pocket Areas. Unless exempted in Subsection 11.50.050 B., the following are subject to the On-Site Tree Density Standards:
- 1.** New Development;
  - 2.** Exterior alterations to existing development with a project valuation that is more than the threshold stated in Subsection 33.258.070 D.2.a.
- B.** Exemptions.
- 1.** The following development activities are exempt from the on-site tree density standards:
    - a.** A specific condition of land use review approval exempts the site from these density standards;
    - b.** The site is within the Portland International Airport Plan District or Cascade Station/Portland International Center Plan District and is subject to the Airport Landscape Standards; see Title 33, Planning and Zoning.
    - c.** Private trees on portions of sites located within an IH zone.
    - d.** Work conducted under Demolition, Site Development, Septic, Plumbing or Zoning Permits.
  - 2.** Sites with the following primary uses are exempt from the on-site tree density standards:
    - a.** Railroad Yards;
    - b.** Waste Related;
    - c.** Agriculture;
    - d.** Aviation and Surface Passenger Terminals;
    - e.** Detention Facilities;
    - f.** Mining;
    - g.** Radio Frequency Transmission Facilities; or

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**h. Rail Lines and Utility Corridors;**

**C.** New development shall meet City specifications and standards in Chapter 11.60 and the on-site tree density requirements in Subsection D., below. Exterior alterations shall meet City specifications and standards in Chapter 11.60 and the on-site tree density requirements in Subsection D., below, but are only required to spend 10 percent of project value on the requirements in Subsection D. and the nonconforming upgrades required by Chapter 33.258, Nonconforming Situations.

**D. On-Site Tree Density Requirements.**

**1.** Required Tree Area. The required tree area is based on the size of the site and the type and size of proposed and existing development as shown in Table 50-2. Applicants may choose Option A or Option B for calculating required tree area except only Option A may be used to apply standards to a "Development Impact Area".

**Table 50-2  
Determining Required Tree Area**

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

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



**Table 50-3  
Number of Required Trees and Minimum Planting Area**

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

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

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

**11.50.060 Street Tree Planting Standards.**  
(Amended by Ordinance No. 191030, effective November 11, 2022.)

- A.** Where these Regulations Apply.

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

2. When new streets are being created in association with a land division, Street Tree planting may be deferred until the completion of the building permit on each new lot, subject to City Forester approval.

**11.50.070 Tree Plan Submittal Requirements.**

(Amended by Ordinance Nos. 188278, 188816 and 191030, effective November 11, 2022.)

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

- A. Site Plan Requirements. The site plan shall include the following information with sufficient detail to show that the proposal complies with this Title. See the definition for site in Title 33.

1. Existing improvements;
2. Any construction staging areas on site;
3. Proposed alterations including structures, impervious area, grading, and utilities;
4. Existing trees:
  - a. Trees on the site. Indicate the location and the diameter size of:

- (1) Any Heritage Trees and trees required to be preserved as part of a condition of land use approval. These shall be clearly labeled.
- (2) All Private Trees at least 12 inches in diameter and all City Trees at least 6 inches in diameter located completely or partially on the site. On City-owned or -managed sites, the City Forester may require smaller size trees be shown.
- (3) Trees smaller than 6 inches in diameter shall be shown when proposed to be retained for tree density credit.

Applicants using the development impact area option as described in Section 11.50.030, need only identify the trees on the site inside and 25 feet beyond the edge of the development impact area. For all trees shown to be retained on the tree plan (including those beyond the development impact area), tree protection methods detailed in Subsection 11.60.030 C. shall be implemented. Protection may be achieved using the Prescriptive Path or Performance Path.

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- b.** Trees in the street. For the street area adjacent to the development site or development impact area, indicate the location and the diameter size of:
  - (1)** Any Heritage Trees and trees required to be preserved as part of a condition of land use approval
  - (2)** All trees within the adjacent street that are at least 3 inches in diameter.

Applicants using the development impact area option within the street when not associated with development of an adjacent site as described in Section 11.50.030, shall identify trees 3 or more inches in diameter inside and 15 feet beyond the edge of the development impact area.

When the 15 foot distance extends onto property outside the street, provide estimates of tree size and location for trees 6 or more inches in diameter on these properties. For City projects, the City Forester or project arborist may determine which trees on adjacent properties shall be identified per this Subsection.

- 5.** Proposed tree activity:
  - a.** Indicate trees to be retained and proposed tree protection measures meeting the specifications in Chapter 11.60. Trees that are retained but are not protected in accordance with the protection requirements in Chapter 11.60 may not be used to meet preservation or density standards.
  - b.** Indicate trees to be removed. It is the applicant's responsibility to obtain the appropriate consent from the adjacent property owner for tree removal when the tree is only partially on the site.
  - c.** Show location, species, planting size and number of trees proposed to be planted. Trees to be planted shall meet the specifications in Chapter 11.60.

**B.** Narrative requirements.

- 1.** If alternative tree protection measures are proposed, documentation addressing the requirements in Section 11.60.030, Tree Protection Specifications, shall be included.

2. If a tree is to be exempted from tree preservation standards based on poor tree health or condition, supporting documentation from an arborist shall be included.
3. If a tree is to be exempted from tree preservation standards based on it being listed on the Nuisance Plants List, supporting documentation from a landscape professional or an arborist shall be included.

**11.50.080 Changes to Approved Tree Plans and Emergency Tree Removal.**

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

**11.50.090 Administrative Review.**

(Added by Ordinance No. 1888816, March 16, 2018.)

- A. Whenever a decision has been made under this Chapter, the property owner of the development site or that property owner's representative may request that the decision be reviewed by the BDS Director or City Forester, as applicable. The owner or owner's representative must submit a written request to the City within 180 days of the date of the decision. Such review will be conducted by the BDS Director or City Forester, as applicable. The owner or owner's representative requesting such review will be given the opportunity to present evidence. Following

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the review, the BDS Director or City Forester, as applicable, will issue a written determination.

- B.** Nothing in this Section limits the authority of either the BDS Director or City Forester to initiate a proceeding in accordance with Title 3 Bureau of Development Services, Title 11 Trees, and Title 22 Hearings Officer.

### **11.50.095 Appeals.**

(Added by Ordinance No. 1888816, March 16, 2018.) A determination issued as stated in Section 11.50.090 may be appealed by the property owner of the development site or that property owner's representative to the Code Hearings Officer, as provided for in Chapter 22.10 of City Code. All appeals from the Code Hearings Officer's determination in accordance with this Section will be by writ of review as authorized by Section 22.04.010 of the City Code and ORS 34.010-34.100.

**CHAPTER 11.60 - TECHNICAL  
SPECIFICATIONS**

**Sections:**

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

**11.60.010 Where These Regulations Apply.**

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

**11.60.020 Tree Planting Specifications.**

(Amended by Ordinance Nos. 188278 and 191030, effective November 11, 2022.) The following specifications apply to trees planted to meet a requirement of this Title. These specifications may be combined with other requirements as necessary to ensure trees are properly selected, spaced, and sized.

- A. Prohibited Locations.
  - 1. In the South Waterfront Plan district area, planting trees is not allowed between the riverfront trail and the river at major or minor viewpoints as designated in Title 33 Planning and Zoning.
  - 2. In the Columbia South Shore Well Field Wellhead Protection Area as designated in Title 21, planting trees over the top of polyethylene geomembrane liners installed to meet the requirements of the Columbia South Shore Well Field Wellhead Protection Manual is prohibited.
  - 3. Trees may not be planted on or within 25 feet south of the toe of the Marine Drive levee slope.
- B. Planting size. In general, the following represent the minimum tree planting size standard; however, the City Forester may allow smaller or require larger trees to suit the site conditions.
  - 1. Broadleaf trees. Broadleaf trees shall meet the minimum caliper size as determined by the development type listed in Table 60-1:

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**Table 60-1  
Broadleaf Tree Size Requirements**

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

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

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

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

1. Small trees have a canopy factor of less than 40, Medium trees have a canopy factor from 40 to 90, and Large trees have a canopy factor greater than 90;
2. Canopy factor = (Mature height of tree) x (Mature canopy spread) x (Growth rate factor) x 0.01;
3. The growth rate factor is 3 for fast-growing trees, 2 for medium-growing trees, and 1 for slow-growing trees.

D. Species requirements.



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1. Species diversity. If there are fewer than 8 required trees, they may all be the same species. If there are between 8 and 24 required trees, no more than 40 percent can be of one species. If there are more than 24 required trees, no more than 24 percent can be of one species. This standard applies only to the trees being planted, not to existing trees.

For Street Trees, the City Forester may make an exception to this requirement in order to fulfill or complement an adopted street or landscape plan.

2. Nuisance species. Trees listed in the "Nuisance Plants List" are prohibited for proposed planting or required replacement.
3. Native species. Any trees required to be planted in environmental (c, p), greenway (n, q, or greenway setback and riverward portion of g, i, and r overlay zones), scenic corridors (s), or Pleasant Valley Natural Resource (v) overlay zones shall be native species. Refer to the "Portland Plant List" for information on appropriate native species for the specific site conditions. Planting activities shall be conducted with hand tools, and may not disturb other native vegetation.

In streets, the City Forester may make an exception to allow planting of non-native Street Trees in these areas when the proposed species of tree will not likely displace native species, and the soil conditions, available growing space, or other site constraints make planting a native tree species infeasible.

4. Adopted guidelines. The City Forester will require species that do not conflict with the requirements of this Section and, to the extent practical, are consistent with characteristics set forth in applicable historic design or other adopted guidelines.
5. Street Tree species. Street Tree species shall conform to the City Forester's "Recommended List of Street Trees". The City Forester may approve or require an alternate or unlisted species when the alternate species is an appropriate and viable selection and is consistent with applicable objectives of an adopted area-specific tree plan or guidelines.

**E. Installation and establishment.**

1. Installation. All required trees shall be planted in-ground, except when in raised planters that are used to meet Bureau of Environmental Services stormwater management requirements. Plant materials shall be installed to current nursery industry standards and proper arboricultural practices. Plant materials shall be labeled for the inspector and properly supported to ensure survival. Support devices such as guy wires or stakes shall not interfere with vehicular or pedestrian movement.

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2. Timing. All trees required or approved to be planted by this Title shall be planted or payment in lieu of planting made prior to the expiration of the permit or City's final acceptance of the project, as applicable. However, it is encouraged that planting occur during the wet months or as per City Forester recommendations. Planting of trees may be deferred between May 1 and September 30 upon filing a performance guarantee as provided in Section 11.10.060 or other assurance deemed acceptable by the City Forester or BDS Director as applicable.
3. Maintenance. Maintenance of required trees including meeting the maintenance specifications in this Chapter is the ongoing responsibility of the property owner. Trees that die shall be replaced in kind. The cost of the tree and maintenance is the responsibility of the property owner.

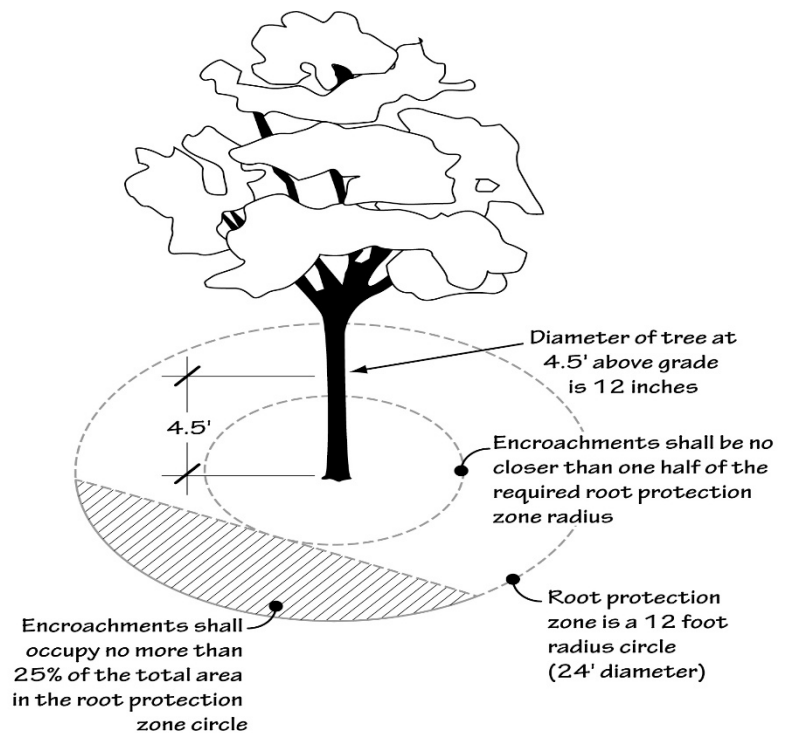
**11.60.030 Tree Protection Specifications.**

(Amended by Ordinance Nos. 188278 and 191030, effective November 11, 2022.)

- A. Intent. Tree protection during development helps to reduce the negative impacts of construction. The tree protection regulations keep the foliage crown, branch structure and trunk clear from direct contact and injury by equipment, materials or disturbances; preserve roots and soil in an intact and non-compacted state; and visibly identify the root protection zone in which no soil disturbance is permitted and other activities are restricted. Maintaining these protections through development will lessen undesirable consequences that may result from uninformed or careless acts, preserve both trees and property values, and reduce risks associated with damaged or destabilized trees.
- B. Applicability. These standards apply to any tree that is required to be retained on site or in the street during a development activity. Proposed tree protection shall meet the requirements of Subsection C., below, except that the City Forester may approve or require alternate protection methods for Street or City Trees.
- C. Protection methods. The Tree Plan shall show that trees retained are adequately protected during construction using one of the methods described below:
  1. Prescriptive Path.
    - a. A root protection zone is established as follows:
      - (1) For trees on the development site - a minimum of 1 foot radius (measured horizontally away from the face of the tree trunk) for each inch of tree diameter (see Subsection 11.80.020 C., Measurements):
      - (2) Street Trees – the City Forester may prescribe greater or lesser protection than required for on-site trees.

- (3) Existing encroachments into the root protection zone, including structures, paved surfaces and utilities, may remain. New encroachments into the root protection zone are allowed provided:
- (a) the area of all new encroachments is less than 25 percent of the remaining root protection zone area when existing encroachments are subtracted; and
  - (b) no new encroachment is closer than 1/2 the required radius distance (see Figure 60-1);

**Figure 60-1**  
**Permissible RPZ Encroachments**



**b. Protection fencing**

- (1) Protection fencing consisting of a minimum 6-foot high metal chain link construction fence, secured with 8-foot metal posts shall be established at the edge of the root protection zone and permissible encroachment area on the development site. Existing structures and/or existing secured

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fencing at least 3.5 feet tall can serve as the required protective fencing.

- (2)** When a root protection zone extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.
  - c.** Signage designating the protection zone and penalties for violations shall be secured in a prominent location on each protection fence;
  - d.** Installation of landscaping required by Title 33 is allowed within the root protection zone and is not an encroachment. Any in-ground irrigation systems are considered encroachments.
  - e.** The following is prohibited within the root protection zone of each tree or outside the limits of the development impact area: ground disturbance or construction activity including vehicle or equipment access (but excluding access on existing streets or driveways), storage of equipment or materials including soil, temporary or permanent stockpiling, proposed buildings, impervious surfaces, underground utilities, excavation or fill, trenching or other work activities; and
  - f.** The fence shall be installed before any ground disturbing activities including clearing and grading, or construction starts; and shall remain in place until final inspection.
- 2.** Performance Path. When the applicant determines that the prescriptive path is not practicable, the applicant may propose alternative measures to modify the prescriptive protection path, provided the following standards are met:
- a.** The alternative root protection zone is prepared by an arborist who has visited the site and examined the specific tree's size, location, and extent of root cover, evaluated the tree's tolerance to construction impact based on its species and health, and identified any past impacts that have occurred within the root zone;
  - b.** The arborist has prepared a plan providing the rationale used to demonstrate that the alternate method provides an adequate level of protection based on the findings from the site visit described above, including a development site plan to demonstrate how the protection plan conforms to the site and the proposed development activity;

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- c.** The protection zone shall be marked with signage, stating that penalties will apply for violations, and providing contact information for the arborist;
- d.** If the alternative methods require the arborist be on site during construction activity, the applicant shall submit a copy of the contract for those services prior to permit issuance and a final report from the arborist documenting the inspections and verifying the viability of the trees prior to the City's final inspection;
- e.** If the alternative tree protection method involves alternative construction techniques, an explanation of the techniques and materials used shall be submitted;
- f.** The arborist shall sign the tree preservation and protection plan and include contact information.

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

- 3.** Additional information. The City may request additional information regarding the proposed development, including construction management approaches, if the proposed development and tree protection appear to conflict. The purpose of this provision is to ensure that logistical considerations are adequately addressed in order to prevent the need for changes to the tree protection measures during the construction process.
- D.** Changes to tree protection. Changes to the tree protection measures during the course of the development may be approved as a revision to a permit provided that the change is not the result of an unauthorized encroachment into a root protection zone, and the applicant demonstrates that the tree protection standards of this Section continue to be met. When an unauthorized encroachment has occurred, the city may pursue an enforcement action or other remedy per Chapter 11.70.
- E.** Tree protection inspections. The City Forester or BDS Director may conduct inspections during the course of project activity to determine compliance with this Title and confirm that tree protection zones are being maintained and root protection methods are effective. No person may refuse entry or access to a permitted development site to any authorized representative of the City who provides proper credentials and requests entry for the purpose of conducting a Tree Protection inspection. In addition, no person may obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties.

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**11.60.040 Tree Pruning and Root Cutting Specifications.**

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

**11.60.050 Tree Removal Specifications.**

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

- A. Completion. To prevent the creation of hazards from partially removed trees, once work has commenced to remove a tree, this work shall be completed in a timely manner. A tree will be considered completely removed when reduced to a stump no taller than 4.5 feet. The City Forester may grant an exception to this specification to allow snag creation. For Street Tree removals, the City Forester may direct that the stump be ground out up to 18 inches below grade.
- B. Disposal of wood and woody debris.
  - 1. City and Street Trees. Disposal, use, or reuse of wood and woody debris from City or Street Trees is at the sole discretion of the City Forester including specific disposal methods for infected wood. Cost for disposal is the responsibility of the property owner (or adjoining property owner for Street Trees). If the City Forester determines that the cost of storage or sale of the wood is not commercially feasible, the City Forester may give such surplus wood to the adjoining property owner or other group as the City Forester may so designate. Unless the City Forester has given the wood to a group, organization, or individual, it is unlawful for any person to possess or dispose of any wood from any City or Street Tree.
  - 2. Private Trees. Disposal, use, or reuse of wood and woody debris from Private Trees is at the property owner's discretion, provided storage of wood does not constitute a public health or safety nuisance. In environmental (c, p), or Pleasant Valley Natural Resource (v) overlay zone, large woody debris may be required to remain or portions of trees left standing as snags. If the City Forester has determined that the tree is affected by a pathogen or insect infestation that will likely adversely impact surrounding trees, all portions of the tree shall be removed from the site and properly disposed at the property owner's expense.

**11.60.060 Tree Maintenance Specifications and Responsibilities.**

(Amended by Ordinance No. 191030, effective November 11, 2022.) The following specifications apply to all trees in the city. The purpose of these provisions is to protect the

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health, safety and welfare of the public, safeguard public infrastructure assets, and ensure the continued health of the urban forest.

**A. General.**

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

**B. Dead, Dying and Dangerous Trees.**

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

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2. Conflicting determinations. In the case where there are conflicts in the determinations from a private arborist or arborists, the City Forester shall make the final determination.
  3. Exceptions. A dead or dying tree that is being maintained as a snag, or does not otherwise result in a public nuisance as described in this Section or Chapter 29.20, Property Nuisances, may remain provided it is not deemed dangerous.
- C. Dutch Elm Disease prevention and eradication.
1. Infected elms and elmwood. All species and varieties of elm trees (genus *Ulmus*) infected with the fungus known as Dutch elm disease (*Ophiostoma ulmi* or *Ophiostoma novo-ulmi*) as determined by laboratory analysis are declared to be a public nuisance. It is the duty of any owner of a lot or parcel where infected elmwood is present to promptly remove any such elm tree or dead elmwood under the supervision and direction of the City Forester.
  2. Pruning restrictions. Pruning any species or varieties of elm trees between April 15 and October 15 is prohibited. This prohibition may be waived by the City Forester when such pruning is necessary to remove hazard limbs, provide the clearances otherwise required by this Section or for other causes as deemed necessary by the City Forester. In cases where the City Forester has allowed pruning to occur during the pruning prohibition period, the responsible party shall properly dispose of removed elm wood within 24 hours.
  3. Authority to inspect. The City Forester is hereby authorized to enter upon any lot or parcel during business hours for the purposes of inspecting any elm tree or dead elmwood situated thereon, obtaining specimens for the purpose of laboratory analysis or to determine whether such tree because it is dead or substantially dead may serve as a breeding place for the European or native elm bark beetle (genus *Scolytus*). If the City Forester determines that the tree serves such purpose, the City Forester may declare the elm tree or dead elmwood a public nuisance.
  4. Determination and action. If, based on analysis of specimens removed from any elm tree, it is determined that such tree is infected, or the City Forester determines that any dead or substantially dead elm trees or dead elmwood may harbor the elm bark beetle, the City Forester will serve a written notice requiring the property owner or responsible party to remove, destroy and properly dispose of such trees or dead Elmwood located on the property or on the adjacent street planting area. If the property owner or responsible party fails, neglects or refuses to remove and destroy, or properly dispose of, such elm tree or dead elmwood within 15 days after service of such



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notice, the City Forester may abate the nuisance as provided in Chapter 11.70.

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

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17. The removal of any tree or portion thereof, as the Responsible Engineer in consultation with the City Forester may determine necessary, will be granted through the appropriate tree permit. The City may require alternative construction methods be used in order to retain the tree. If the tree is removed, the City Forester may require that the removed tree be replaced in accordance with the required permit.

### **G.** Public waterlines, storm sewers and sanitary sewers.

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

**CHAPTER 11.70 - ENFORCEMENT**

**Sections:**

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

**11.70.010 Purpose.**

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

**11.70.020 Where These Regulations Apply.**

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

**11.70.030 Violations.**

- A.** Each specific incident and each day of non-compliance for the following may be considered a separate violation of Title 11:
  - 1.** Any failure, refusal or neglect to comply with any provision of this Title;

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2. Allowing or causing a tree-related condition that threatens to injure the public health or safety, or threatens to damage public or private property; or
  3. Causing or allowing any prohibited actions as cited in this Chapter to occur.
- B.** The following constitute violations of Title 33 Planning and Zoning and not Title 11:
1. Overlay Zones and Plan Districts. Removal of any tree in Overlay Zones or Plan Districts when the removal is not exempt or allowed by Title 33 Planning and Zoning or has not been otherwise authorized through an applicable development permit or land use review.
  2. Conditions of land use reviews. Unauthorized removal of a tree required to be protected as a condition of a land use review while a condition of approval is in effect.

**11.70.040 Enforcement Authority.**

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

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

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

**Table 70-1  
Summary of Enforcement Authority**

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

CF = City Forester      BDS = BDS Director

Note [1] For sites in County Urban Pocket Areas, enforcement applies only to on-site trees, and is done by BDS.

[2] Trees specifically required to be preserved by condition of land use approval that have been removed or damaged will be enforced by the BDS Director through Title 33 Planning and Zoning.

[3] The BDS Director is the lead enforcement authority for violations of development permits issued by BDS. The BDS Director may consult with the City Forester when Heritage, City, or Street Trees are involved. The City Forester is the lead enforcement authority for violations during development not covered under a BDS permit.

[4] The City Forester is the lead enforcement authority when no development is occurring. The City Forester may consult with the BDS Director when the provisions of Titles 29 or 33 are also violated.

**11.70.050 Prohibited Actions.**

(Amended by Ordinance No. 191030, effective November 11, 2022.) Any of the following actions constitute violations of this Title and may be declared a nuisance for the purposes of correcting or abating the unlawful action.

- A.** Failure to properly maintain trees. It is unlawful for any person to fail to comply with any of the tree maintenance specifications set forth in Section 11.60.060.
- B.** Conducting regulated activities without a tree permit. It is unlawful for any person to plant, place, prune, alter, remove, destroy, cut, break or injure any tree without first obtaining a tree permit for said action, except as provided in this Title.
- C.** Non-compliance with terms and conditions of a tree permit. It is unlawful for any person to violate the conditions or time limits imposed upon any tree permit.
- D.** Non-compliance with terms and conditions of a development permit. It is unlawful to fail to adhere to the requirements of a development permit for tree preservation, protection or planting.
- E.** Topping and excessive pruning. It is unlawful for any person to top or excessively prune any tree. Trees shall be allowed to grow in their natural form. A tree that has been topped or excessively pruned may be considered "removed" for the purposes of establishing penalties and any replacement requirements. The City may also

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require the property owner or responsible party to treat the tree as described in Section 11.70.080.

- F.** Activities that cause injury to regulated trees. It is unlawful for any person to injure a regulated tree as defined in Section 11.80.20.
- G.** Attachments to trees. It is unlawful to attach or keep attached to any City or Street Tree, any signs, ropes, wires, chains or other devices whatsoever, when such devices are determined to threaten the viability of the tree or are likely to create a hazard. Any attachments to City or Street Trees are subject to obtaining a tree permit from the City Forester, as stated in Chapter 11.40.
- H.** Interference with tree grates and tree guards. It is unlawful for any person to damage, interfere or otherwise misuse any tree grate or guard set for the protection of any Street Tree, City tree, or Heritage tree. Removal of such devices may only occur as authorized by the City Forester.
- I.** Failure to install or maintain protection measures. It is unlawful for any person to fail to install required tree protection measures prior to commencing any development activity subject to Chapter 11.50. Furthermore, it is unlawful for such person to move any required protection measures, neglect or fail to maintain such measures throughout the development activity, or allow any restricted activity or disturbance to occur within the protection area without prior City approval.
- J.** Removal or failure to maintain required trees. It is unlawful for any person to fail to maintain in a healthy condition, trees required to be planted by virtue of a tree permit or development permit, including landscape trees and trees necessary to meet tree density standards. Any such trees that die shall be replaced.

### **11.70.060 Inspections and Evidence.**

(Amended by Ordinance No. 191030, effective November 11, 2022.)

- A.** The City may conduct inspections whenever it is necessary to enforce any provisions of this Title, to determine compliance with this Title or whenever the City has reasonable cause to believe there exists any violation of this Title. Inspections shall occur during business hours. If the responsible party is at the site when the inspection is occurring, the BDS Director, City Forester, or other authorized representative shall first present proper credentials to the responsible party and request entry. If such entry is thereupon refused, the BDS Director or City Forester shall have recourse to any remedy provided by law to obtain entry, including obtaining an administrative search warrant.
- B.** If any tree is removed without a tree removal permit, a violation will be determined by measuring the circumference of the stump at the ground to establish the diameter size of the tree. For purposes of this Subsection, the diameter size of the tree is the circumference divided by 3.14.

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- C.** In cases where a tree stump has been removed, the BDS Director or City Forester may use photographs of the tree including the city’s most current aerial images to determine if a violation has occurred. For aerial photographs, when the associated canopy measures 1,600 square feet at the edge of the dripline, this may be considered prima facie evidence of a violation of this Chapter. Nothing in this Subsection will be construed to limit the introduction of other photographic evidence before the Code Hearings Officer.
- D.** When there is insufficient evidence to demonstrate whether a removed tree was a nuisance species or native tree species, the tree will be considered as a non-native, non-nuisance species tree.
- E.** Tree removal, topping, or other injury caused by natural causes or weather will not be deemed a violation of this Title, provided there is no other clear evidence to suggest that the tree was deliberately removed or injured.

**11.70.070 Notice and Order.**

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

  - 1.** The date of posting (if notice was posted at the property);
  - 2.** The street address or a description sufficient for identification of the property;
  - 3.** A statement that one or more violations of this Title exist at the property with a general description of the violations;
  - 4.** Disclosure that penalties, charges, and liens may result from a failure to remedy the violations;
  - 5.** Specification of a response period during which the property may be brought into compliance with this Title before penalties, charges or liens will be assessed; and

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6. Disclosure that the owner’s right to request an administrative review to appeal the findings of the notice of violation and a description of the time limits for requesting an administrative review as set forth in this Chapter.
- C. Compliance inspections and penalties. Once a notice has been mailed, the owner will be responsible for all enforcement penalties associated with the property, as described in this Chapter, until the violations are corrected and the City has been so notified. Except in the case of summary abatement, whenever the owner believes that all violations listed in the first or any subsequent notice of violation have been corrected, they shall notify the City.
- D. Time limits. The BDS Director or City Forester shall set time limits in which the violations of this Title are to be corrected. Failure to comply with the time limits may be considered a separate violation of this Title.
- E. Information filed with County Recorder. If the City finds violations of this Title on any property, the City may record with the County Recorder information regarding City code violations and possible liens on the property.

**11.70.080 Correcting Violations of this Title.**

(Amended by Ordinance Nos. 188278, 188647 and 191030, effective November 11, 2022.)

- A. General. The following list of remedies gives the City Forester and BDS Director broad discretion in applying a reasonable and effective means to restore a tree or site where trees have been illegally removed or damaged, or where a dead, dying, dangerous, or nuisance species tree has been identified to be preserved to meet Subsection 11.50.040 C.1. The rights and remedies provided in this Chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law including the enforcement actions described in Section 11.70.090. The City Forester or BDS Director may adopt administrative rules to establish priorities and guidelines for the following remedies.
- B. Standard remedies. Standard remedies are intended to address a wide variety of violations of this Title. Additional remedies specific to City and Street Trees, and trees in development situations are described in Subsections C. and D. When the City determines that a violation of this Title has occurred, any or all of the standard remedies described in this Subsection, and any applicable additional remedies described in this Section may be required depending on the severity and extent of the violation.

  1. Minor Infractions. For minor infractions that do not result in damage to a tree, the City will first seek to correct the violation without penalties. These infractions may include failing to prune or remove a tree in violation of Chapter 11.60, failing to install or maintain tree protection when prohibited activities have not occurred within the root protection zone, or failing to



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plant a tree as required by a development permit or condition of granting a tree removal permit.

2. Treatment. For trees that are damaged but were not removed and where the City Forester concurs that the tree may still be viable, the violation will not be considered an "illegal tree removal" provided:
  - a. The property owner or responsible party contracts for the services of an arborist to assess the damage and prescribe a treatment regimen;
  - b. The property owner or responsible party enters into a contract with an arborist to complete the treatment regimen. The treatment and associated monitoring period shall be at least 1 year, but may be longer; and
  - c. The arborist shall provide the City with updates on the services performed, when they were performed, and the status of the tree's condition at intervals determined by the original treatment regimen. If the tree dies at any time during the treatment and monitoring period, the property owner or responsible party shall remove and replace the tree subject to the tree replacement requirements described in Subsection B.3.
  - d. In lieu of the treatment regimen and monitoring period described above, the City Forester may instead accept a performance guarantee per Chapter 11.10. The performance guarantee shall be sufficient to cover the cost of removing the tree plus the cost of tree replacement as described in Subsection B.3. When the property owner or responsible party selects this option, death of the tree within the 3 year timeframe may be deemed prima facie evidence that the damage was the sole cause of the tree's death.
3. Revised Tree Plan and Payment in Lieu. In cases where a dead, dying, dangerous or nuisance species tree is identified to be preserved to meet Subsection 11.50.040 C.1., the City Forester may require a revision to the submitted tree plan to ensure that only healthy, viable trees are preserved to meet the requirement. If the applicant disagrees with the City's determination on the health or species of a tree to be preserved, an arborist report can be submitted by the applicant to demonstrate compliance. If no trees remain on site to meet the preservation requirement, the applicant may pay the applicable mitigation fee, as defined in Subsection 11.50.040 C.
4. Tree Replacement and Payment in Lieu. The City may require replacement for any trees removed illegally. The City may require greater than tree-for-tree replacement, but may not require greater than inch-for-inch

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replacement. For each tree that the City positively determines was dead, dying, or dangerous, the replacement will be limited to one tree. The responsible party shall enter into a replanting and maintenance plan agreement approved by the City. When the responsible party is unable to accommodate the required replacement planting on the site or adjacent street, the balance of required inches may be paid as a fee in lieu of planting to the Tree Planting and Preservation Fund.

5. **Tree Permit Violation Review.** The City may require any person who cuts, removes, or damages any tree without a permit as required by this Title or is in non-compliance with any term, condition, limitation or requirement of a tree permit or Tree Plan, to submit an application for a Tree Permit Violation Review. Trees removed in violation of Title 33 Planning and Zoning requirements may also be processed in accordance with the enforcement provisions of that Title.

Tree Permit Violation Applications are processed as Type B permits, and are subject to public notice but not the public appeal procedures of Chapter 11.30. The purpose of this review is to establish appropriate replacement requirements and notify interested parties. Failure to abide by the conditions of the approval will be treated as a repeat offense.

- C. **Additional remedies for City and Street Trees.** In addition to the remedies provided by any other provision of this Chapter, when the City Forester determines that a violation of this Title has occurred involving a City Tree or Street Tree, the City Forester may seek additional remedies as described below.

1. **Restoration Fees.** The City may require any person to pay into the City's Urban Forestry Fund a restoration fee for the damaged or removed tree according to the City's adopted fee schedule. The restoration fee may be doubled if any of the following apply:
  - a. The person has been convicted of a previous violation of this Title; or
  - b. The tree was subject to the protection requirements of a Tree Plan.
2. **Civil Remedies.** The City will have the right to obtain, in any court of competent jurisdiction, a judgment against any person removing or causing damage to any City tree or Street Tree in violation of this Title. In any such action, the measure of damages is the actual replacement value of the damaged or destroyed trees as well as any other consequential damage to other public facilities within the street.

- D. **Additional remedies for Private Trees Subject to a Tree Plan.** In addition to the remedies provided by any other provision of this Chapter or other Titles, when the

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BDS Director determines that a violation of this Title has occurred involving a Private Tree shown to be protected on a Tree Plan, the BDS Director may require the property owner or responsible party to correct the violation using any of the following remedies.

1. Tree Protection Re-inspection Fee. When an inspection of a site subject to development under an approved Tree Plan finds that tree protection measures have not been installed as required or are not properly maintained, the City may issue a correction notice and require the responsible party to pay a Tree Protection Re-inspection Fee. Payment of the fee is required prior to final inspection.
2. Tree Plan Revision. For tree removal or injury which results in removal, and where the tree was not required to be preserved by virtue of a land use approval, the BDS Director may require the applicant to prepare a revision to the approved plans and demonstrate conformance with the applicable tree preservation and tree density standards in Chapter 11.50, including any additional tree planting, payments, or preservation of alternate trees.

**E.** Additional remedies for Heritage Trees. In addition to the remedies provided by any other provision of this Chapter, when the City Forester determines that a violation of this Title has occurred involving a Heritage Tree, the City Forester may seek additional remedies as described below.

1. Restoration Fees.
  - a. Private Heritage Trees. The City may require any person to pay into the City's Tree Planting and Preservation Fund for the damage or removal of a Heritage Tree, according to the City's adopted Title 11 Tree Fee Schedule.
  - b. City and Street Heritage Trees. The City may require any person to pay into the City's Urban Forestry Fund for the damage or removal of a Heritage Tree, according to the City's adopted Title 11 Tree Fee Schedule.

**11.70.090 Enforcement Actions.**

(Amended by Ordinance Nos. 188278, 189413 and 191030, effective November 11, 2022.)

**A.** General. The following list of enforcement actions gives the City Forester and BDS Director additional means to obtain compliance with the requirements of this Title. The rights and remedies provided in this Chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law. The City Forester or BDS Director may adopt administrative rules to establish priorities and guidelines for the following enforcement actions.

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- B.** Standard enforcement actions. Standard enforcement actions may be invoked for general violations of this Title, including conducting tree activities without a required tree permit. In addition to these standard actions, the City Forester may take additional actions for City and Street Tree violations as described in Subsection C.
- 1.** Civil penalties. The City Forester or BDS Director may issue a fee, penalty notice or citation, as applicable, to any person who cuts, removes, prunes or harms any tree without a permit as required by this Title or is otherwise in non-compliance with any term, condition, limitation or requirement of an approval granted under this Title, and require payment of a civil penalty up to \$1,000 per day. Each tree constitutes a separate violation, and each day that the person fails to obtain a permit or remains in non-compliance with a permit or tree plan may also constitute a separate violation.
  - 2.** Initiating a proceeding before the Code Hearings Officer. The City Forester and BDS Director are each authorized to initiate proceedings before the Code Hearings Officer, as stated in the procedures in Title 22 Hearings Officer, to enforce the provisions of this Section when the responsible person fails to respond to the City Forester or BDS Director's notice or citation as described in Section 11.70.070, above. The Hearings Officer may order any party to:
    - a.** Abate or remove any nuisance;
    - b.** Install any equipment or plant trees necessary to achieve compliance;
    - c.** Pay to the City of Portland a civil penalty of up to \$1,000 per day. In determining the amount of any civil penalty to be assessed, the Code Hearings Officer will consider the following:
      - (1)** The nature and extent of the property owner or responsible party's involvement in the violation;
      - (2)** The benefits, economic, financial or otherwise, accruing or likely to accrue as a result of the violation;
      - (3)** Whether the violation was isolated and temporary, or repeated and continuing;
      - (4)** The magnitude and seriousness of the violation;
      - (5)** The City's cost of investigation and remedying the violation;
      - (6)** Any other applicable facts bearing on the nature and seriousness of the violation.





Forester, as applicable, certifies that all violations listed in the original or any subsequent notice of violation have been corrected.

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

**11.70.100 Nuisance Abatement.**

(Amended by Ordinance No. 188278, effective April 14, 2017.)

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

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

### D. Procedure for issuance of a nuisance abatement warrant.

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

### E. Cost of nuisance abatement.

1. Whenever a nuisance is abated by the City, the BDS Director or City Forester shall keep an accurate account of all expenses incurred for each nuisance abated including but not limited to abatement costs, civil penalties, fees, administrative costs, recorders fees and title report charges as set forth in the Title 11, Trees Fee Schedule, as approved by City Council.
2. When the City has abated a nuisance maintained by any owner of real property, for each subsequent nuisance which is abated by the City within 2 consecutive calendar years concerning real property, owned by the same person, an additional civil penalty as set forth in the Title 11, Trees Fee



Schedule, shall be added to the costs, charges and civil penalties. The additional civil penalty shall be imposed without regard to whether the nuisance abated by the City involved the same real property or is of the same character as the previous nuisance.

3. Costs and penalties resulting from nuisance abatement shall be assessed as a lien upon the real property as provided in Section 11.70.090 Enforcement Actions.

**11.70.110 Summary Abatement.**

- A. When summary abatement is authorized by this Title, the decision regarding whether or not to use summary abatement will be at the City's discretion. In the case of summary abatement, notice to the owner or occupant of the property prior to abatement is not required.
- B. Following summary abatement, the BDS Director or City Forester, as applicable, shall post upon the property liable for the abatement a notice describing the action taken to abate the nuisance violation. In addition, a Notice of Summary Abatement shall be mailed to the property owner. The notice shall include:
  1. The date the nuisance on the property was abated;
  2. The street address or description sufficient to identify the property;
  3. A statement of the violations of Title 11 that existed at the property and were summarily abated;
  4. Disclosure that penalties, charges and liens will result from the summary abatement; and
  5. Disclosure of the owner's right to appeal the findings of the notice as set forth in this Chapter.

**11.70.120 Administrative Review.**

(Amended by Ordinance No. 191030, effective November 11, 2022.)

- A. Whenever a property owner or responsible party has been given a notice as required by this Chapter and has been directed to make any correction or to perform any act and the owner or responsible party believes the finding of the notice was in error, the owner or responsible party may have the notice reviewed by the BDS Director or City Forester, as applicable. If a review is sought, the owner or responsible party shall submit a written request to the City within 15 days of the date of the notice. The BDS Director or City Forester, as applicable, may extend this requirement for good cause shown. Such review will be conducted by the BDS Director or City Forester, as applicable. The owner or responsible party requesting such review will

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be given the opportunity to present evidence. Following the review, the BDS Director or City Forester, as applicable will issue a written determination.

- B.** Nothing in this Section limits the authority of either the BDS Director or City Forester to initiate a proceeding under Title 22 Hearings Officer.

**11.70.130 Appeals to the Code Hearings Officer.**

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

**11.70.140 Further Appeals.**

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

**11.70.150 Waivers.**

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

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

CHAPTER 11.80 - DEFINITIONS AND  
MEASUREMENTS

**Sections:**

- 11.80.010 Defining Words.  
11.80.020 Definitions and Measurements.

**11.80.010 Defining Words.**

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

**11.80.020 Definitions and Measurements.**

(Amended by Ordinance Nos. 188278, 189078 and 191030, effective November 11, 2022.)

- A.** Information about the use of terms in the tree code is contained in Section 11.10.030.
- B.** The definition of words with specific meaning in the tree code are as follows:
1. "Appeals Board" is the Urban Forestry Appeals Board. The duties and composition are in Section 11.20.030.
  2. "Arboriculture" refers to the horticultural focus on the study and care of trees and other woody plants.
  3. "Arborist" means a professional listed as a certified arborist by the International Society of Arboriculture or a consulting arborist registered with the American Society of Consulting Arborists.
  4. "Attached Structure" means a structure attached to a building.
  5. "BDS Director" is the Director of the Bureau of Development Services or the BDS Director's designee. The duties of the BDS Director are in Section 11.10.010.
  6. "Building" means a structure that has a roof, is enclosed on at least 50 percent of the area of its sides and required a development permit prior to construction.
  7. "Building Coverage" has the same meaning as in Title 33 Planning and Zoning.
  8. "Business Hours" means 7:30 am to 5 pm, during working days.
  9. "City" is the City of Portland.

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

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- b.** "One to Four Family Residential" refers to a house, attached house, accessory dwelling unit, duplex, attached duplex, triplex, fourplex, or manufactured home on one lot or parcel as those terms are defined in Title 33 Planning and Zoning.
  - c.** "Multi-Dwelling Residential" refers to more than four dwelling units on a single lot or parcel, structures that contain five or more dwelling units that share common walls or floor/ceiling with one or more units, as well as Group Living, as defined in Title 33 Planning and Zoning.
  - d.** "Commercial/Office/Retail/Mixed Use" means development that includes one or more of the following primary uses. The uses refer to the Use Categories in Title 33 Planning and Zoning: The uses are: Household Living, Commercial Parking, Quick Vehicle Servicing, Office, Retail Sales And Service, Self-Service Storage and Vehicle Repair.
  - e.** "Industrial" means development that includes one or more of the following primary uses. The uses refer to the Use Categories in Title 33 Planning and Zoning. The uses are: Industrial Service, Manufacturing And Production, Warehouse And Freight Movement and Wholesale Sales.
  - f.** "Institutional" means development that includes one or more of the following primary uses. The uses refer to the Use Categories in Title 33 Planning and Zoning. The uses are: Colleges, Community Service, Daycare, Medical Centers, Parks and Open Areas, Religious Institutions and Schools.
  - g.** "Other" means development that includes one or more of the following primary uses referred to in Title 33 Planning and Zoning. The uses are: Commercial Outdoor Recreation, Major Event Entertainment and Basic Utilities.
- 20.** "Injury" means a wound inflicted upon a tree resulting from any activity, including trenching, excavating, altering the grade, smothering within the root protection zone of a tree, bruising, scarring, tearing or breaking of roots, bark, trunk, branches or foliage, herbicide or poisoning, or any other action leading to the death or permanent damage to tree health including the following:
- a.** "Disturbance" is the various activities from construction or development that may damage trees.



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

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duties to another employee in the same bureau. The duties are as prescribed in Section 11.10.010.

30. "Responsible Party" is a person in control of property in fee ownership or tenancy where a tree is located or property adjacent to a Street Tree. The responsible party may include the owner or owners, lessees, tenants, occupants or other persons in charge. In cases of violations, the responsible party may also include the person, partnership, or corporation who violated the provisions of this Title.
31. "Site" has the same meaning as in Title 33 Planning and Zoning.
32. "Street" has the same meaning in Section 9-101 of the City Charter.
33. "Treatment" is the application of therapeutic remedies or corrections to site conditions when injury to trees has occurred to improve the chances of long term viability. Generally these measures should occur only under the direction of an arborist. Treatment measures include compensatory or corrective pruning, fertilization, inoculation, soil fracturing, grade restoration and supplemental irrigation.
34. "Tree Area" is the amount of area on a development site that is used to calculate the required number of trees to be planted to meet tree density standards.
35. "Tree Plan" is a site plan showing trees to be preserved and protected, planted, or removed. Specific requirements for Tree Plans are in Chapter 11.50.
36. Tree Related Terms:
  - a. "City Tree" is a tree within City limits that is on property owned or managed by the City. A tree that straddles a property line between private property and City-owned or -managed property is a Private Tree, shared by the City and adjacent property owner. A tree on a property line between City-owned or managed property and the street is a Street Tree.
  - b. "Dangerous Tree" is one where the condition of the tree presents a foreseeable danger of inflicting damage that cannot be alleviated by treatment, pruning, or by making practicable site condition modifications. A tree may be dangerous because it is likely to injure people or damage vehicles, structures, or development, such as sidewalks or utilities.



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- c.** "Dead Tree" is a tree that is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, or branches exist to sustain life as determined by an arborist.
- d.** "Dying Tree" is a tree in an advanced state of decline because it is diseased, infested by insects or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent spread of the infestation or disease to other trees or is imminently likely to become a danger or die.
- e.** "Heritage Tree" is a tree designated as a Historic Landmark Tree, a Historic Tree, or a Heritage Tree.
- f.** "Native Tree" is a tree listed on the "Portland Plant List" as native to the Willamette Valley.
- g.** "Non-Native Non-Nuisance Species Tree" is a tree that is not identified on the Portland Plant List as a native species or a nuisance species tree.
- h.** "Nuisance Species Tree" is a tree of a species listed on the "Nuisance Plant List".
- i.** "Protected Tree" is a tree that shall be retained and protected because of a condition of approval on a land use review, a tree plan, or because it is a Heritage Tree.
- j.** "Private Tree" is a tree on property that is not owned or managed by the City. A tree that straddles a property line between private property and City-owned or –managed property is a Private Tree, shared by the City and adjacent property owner. A tree that straddles a private property line and the street is a Street Tree.
- k.** "Street Tree" means any tree growing in or upon any city managed street. In some cases, property lines lie several feet behind the sidewalk or edge of road pavement. Where a street is not fully improved with curbs or sidewalks but is paved, a tree may be considered a Street Tree if it is located within 15 feet of the edge of pavement, unless a survey by a licensed surveyor or property boundaries can clearly establish otherwise. For completely unimproved streets, the actual property line will be used to demarcate between Private Trees and Street Trees. A tree that straddles a private property line and the street is a Street Tree.
- l.** "Tree" means a perennial, woody stemmed plant that typically supports a distinct crown of foliage and typically reaches a mature

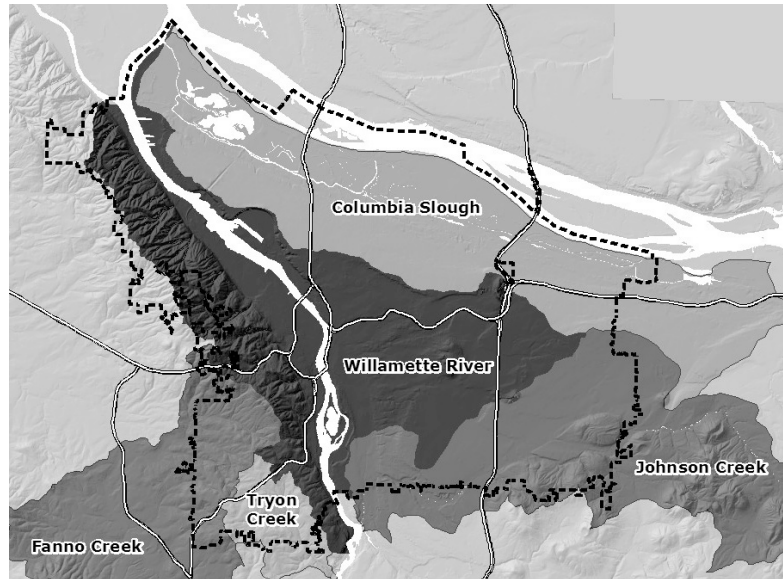
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height of at least 16 feet and excludes plants listed as shrubs or herbaceous plants in the Tree and Landscaping Manual published by the Bureau of Development Services or the Portland Plant List.

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

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

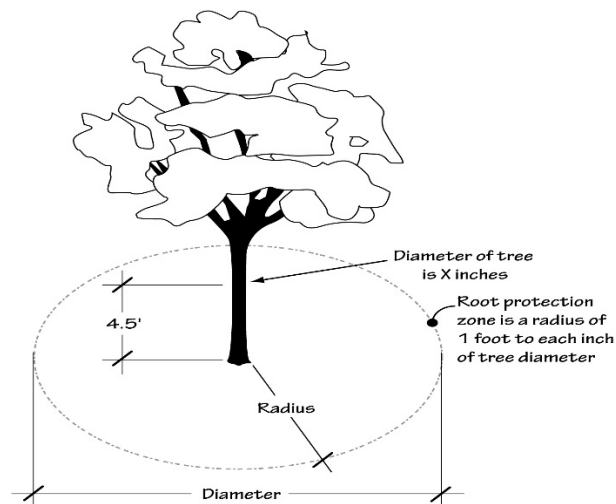
Figure 80-1  
Watershed Boundaries



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

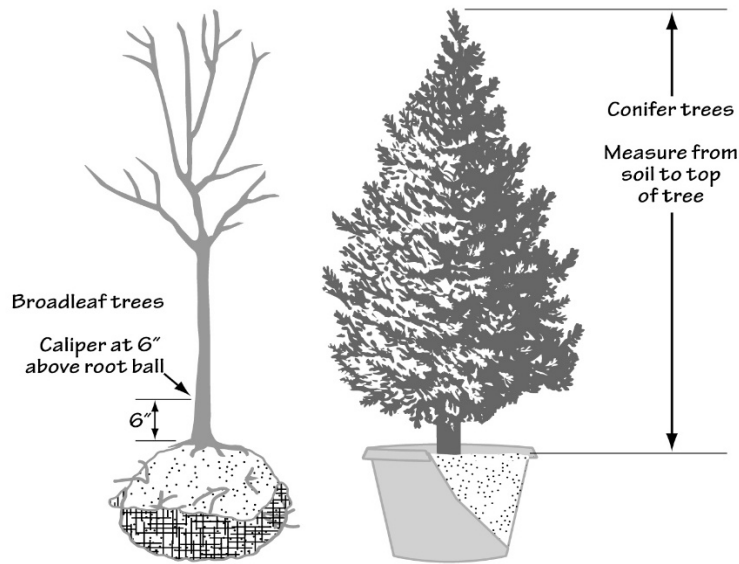
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**Figure 80-2  
Root Protection Zone**



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

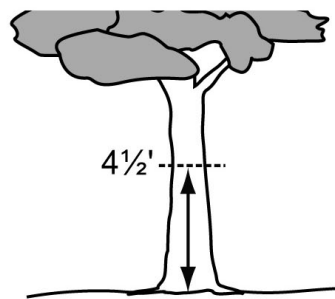
**Figure 80-3**  
**Measuring Tree Size for New Trees**



**b.** Existing trees.

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

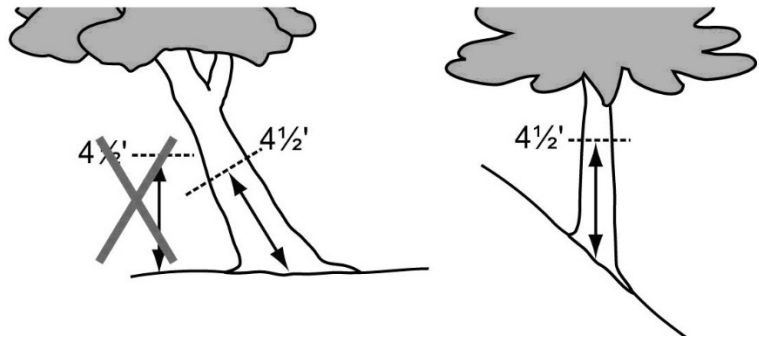
**Figure 80-4**  
**Measuring Tree Size for Existing Trees**



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

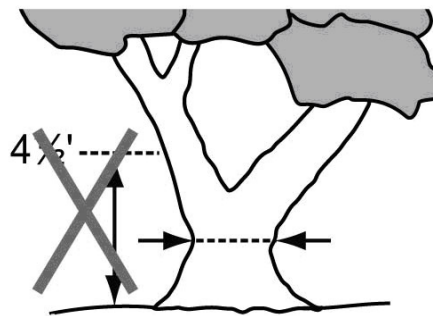
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**Figure 80-5  
Measuring Existing Trees with an Angle or on Slopes**



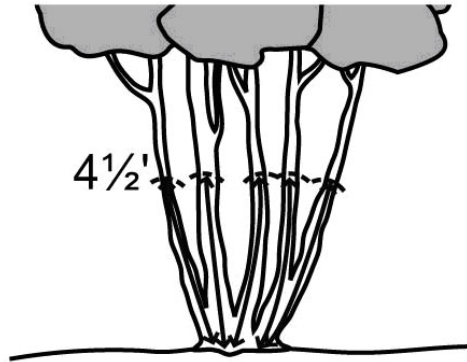
- (3) When the trunk branches or splits less than 4.5 feet from the ground, measure the smallest circumference below the lowest branch. See Figure 80-6.

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



- (4) For multi-stemmed trees, the size is determined by measuring all the trunks, and then adding the total diameter of the largest trunk to one-half the diameter of each additional trunk (see Figure 80-7). A multi-stemmed tree has trunks that are connected above the ground and does not include individual trees growing close together or from a common root stock that do not have trunks connected above the ground.

Figure 80-7  
Measuring Multi-stemmed Trees







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16.65.010

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Funeral Processions.

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- B.** Except in the case of emergency and as otherwise provided for herein, the City Engineer shall not issue permits for the use of Auxiliary Vehicular Lanes between the hours of 6:00 AM and 7:00 PM Monday through Friday. The City Engineer may issue permits for Saturday and/or Sunday, but permits shall be short term closures as required for operational safety of the service provider and shall not interrupt TriMet service. The Director of Transportation may approve a short term (3 days or less) permit, during otherwise restricted times, with agreement from Tri-County Metropolitan Transportation District of Oregon (TriMet). The Director shall establish rules and procedures for this type of closure.
- 1.** “Emergency” shall mean any unscheduled repair of existing facilities which must be accomplished immediately to protect the life, health and well being of the public, or to protect public or private property. Under this definition, “emergency” work shall encompass only immediately required repairs and shall not include extensive replacement or upgrading of the facility.
- C.** The City Engineer may issue permits for the use of Auxiliary Vehicular Lane on SW 6th Avenue between SW Taylor and SW Morrison Streets to accommodate events permitted and authorized by Pioneer Courthouse Square, Inc. as may be deemed appropriate in the judgment of the City Engineer.
- D.** All permits shall include a traffic control plan approved by the City Engineer and Tri-County Metropolitan Transportation District of Oregon (TriMet).

**16.50.500 Regulation and Permit Procedure.**

- A.** The Traffic Engineer must notify the Tri-County Metropolitan Transportation District of Oregon of any rule, regulation or permit proposed to be issued under this chapter. The rule, regulation or permit will become effective on a date agreed upon by both parties. In the event of disagreement between Tri-Met and the Traffic Engineer, the City Council will determine whether the rule be adopted or the permit issued based upon the amount of interference to mass transit operations.
- B.** No limitation or prohibition of use herein applies to vehicles on a street intersecting or crossing a transit lane unless it is specifically designated as a transit lane.

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**CHAPTER 16.60 - MOTOR VEHICLE FUELS**

(Chapter added by Ordinance No. 180313, effective  
August 11, 2006.)

**Sections:**

- 16.60.010 Definitions.
- 16.60.015 Authority of Director.
- 16.60.020 Minimum Biofuel Content Requirements.
- 16.60.025 Biofuel Carbon Intensity Requirements.
- 16.60.030 Exemptions.
- 16.60.040 Enforcement and Notice of Violation.
- 16.60.050 Penalties.
- 16.60.060 Disclosure.

**16.60.010 Definitions.**

(Amended by Ordinance Nos. 180671, 189820 and 191100, effective December 7, 2022.)  
As used in this Chapter, the following terms shall be defined as provided in this section:

- A.** “Biodiesel” means a renewable alternative to diesel fuel that consists of mono-alkyl esters of long chain fatty acids derived from plant or animal matter that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency and standards established by the American Society of Testing and Materials (ASTM).
- B.** “Biofuel” means any fuel that is derived from plant or animal matter that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency and standards established by the American Society of Testing and Materials (ASTM) as determined by the Director of the Bureau of Planning and Sustainability under Subsection 16.60.020 C. For the purposes of this Chapter, Biofuel includes Biodiesel, Renewable Diesel, and Ethanol.
- C.** “Blendstock” means any unfinished biofuel that is used for the purpose of blending with petroleum-based diesel fuel to make a final refined product. For example, a final product of B20 is made from a blend of 80 percent petroleum-based diesel fuel and 20 percent B100 blendstock.
- D.** “Carbon intensity” means the amount of lifecycle greenhouse gas emissions per unit of energy of fuel expressed in grams of carbon dioxide equivalent per megajoule (gCO<sub>2</sub>e/MJ), as determined by the Oregon Department of Environmental Quality (DEQ) Clean Fuels Program.
- E.** “City” means the City of Portland.

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- F.** “Diesel” means petroleum-based liquid that is suitable for use as a fuel in diesel powered motor vehicles.
- G.** “Director” means the Director of the Bureau of Planning and Sustainability or the Director’s authorized representative, designee or agent.
- H.** “E10” means a fuel mixture of 10 percent ethanol and 90 percent gasoline.
- I.** “Ethanol” means ethyl alcohol, a flammable liquid used or sold for the purpose of blending or mixing with gasoline.
- J.** “Feedstock” means the plant or animal matter from which a biofuel is derived.
- K.** “Fuel” means all gasoline or diesel sold within the City for the purpose of operating motor vehicles on public roadways.
- L.** “Fuel distributor” means a person that causes the transportation or storage of fuel at any point between a refinery or importer’s facility and any retail outlet or wholesale purchaser-consumer within the City.
- M.** “Gasoline” means any petroleum-based fuel sold for use in spark ignition engines.
- N.** “Motor vehicle” means every inanimate vehicle which is self-propelled. For the purposes of this Chapter, the definition of motor vehicle shall not include aircraft, watercraft, or locomotives.
- O.** “Nonretail dealer” means any person who owns, operates, controls or supervises an establishment at which motor vehicles fuel is dispensed through a car or key-activated fuel dispensing device to nonretail customers.
- P.** “Product transfer document” or “PTD” means a document, or combination of documents, that authenticates the transfer of fuel ownership between parties and must include all information as required under administrative rules developed by the Bureau of Planning and Sustainability. A PTD may include bills of lading, invoices, contracts, meter tickets, rail inventory sheets or RFS product transfer documents.
- Q.** “Renewable diesel” means a renewable alternative to diesel fuel that is produced through various thermochemical processes such as hydrotreating, gasification, and pyrolysis and is derived from plant or animal matter. Renewable diesel is chemically the same as petroleum diesel fuel. Renewable diesel meets the American Society for Testing and Materials (ASTM) specification ASTM D975 for petroleum diesel may be used in existing petroleum pipelines, storage tanks, and diesel engines.

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- R. “Reseller” means a person who purchases fuel and resells or transfers it to a retailer or wholesale purchaser-consumer within the City.
- S. “Retail outlet” means any establishment within the City at which fuel is sold or offered for sale to the ultimate consumer for use in motor vehicles.
- T. “Retailer” means any person who owns, leases, operates, controls or supervises a retail outlet within the City.
- U. “Wholesale purchaser-consumer” means any organization within the City that is an ultimate consumer of fuel, and which purchases or obtains diesel or gasoline from a fuel distributor or reseller for use in motor vehicles and receives delivery of that product into a storage tank or directly into a vehicle’s tank.

**16.60.015 Authority of Director.**

(Added by Ordinance No. 191100, effective December 7, 2022.)

- A. The Director is authorized to administer and enforce the provisions of this Chapter.
- B. The Director may, upon request, issue written interpretations of how this Chapter applies in general or to specific circumstances.
- C. The Director is authorized to adopt, amend and repeal rules, procedures and forms to implement the provisions of this Chapter.
  - 1. Before adopting, amending or repealing a rule, the Director must notify interested parties and hold a public comment period. Such notice, which may be provided by mail or electronic means, such as posting on the Program’s website, must be published at least 4 weeks before the close of the public comment period. The notice must include instructions on how an interested party may comment on the proposed rule, a brief description of the subjects covered by the proposed rule and how to access the full text of the proposed rule.
  - 2. During the public comment period, the Director will receive written comments concerning the proposed rule. At the conclusion of the public comment period, the Director will either adopt the proposed rule, modify it or reject it, taking into consideration the comments received. If a substantial modification is made, an additional public comment period will be held, as determined in the Director’s sole discretion. Unless otherwise stated, all rules are effective upon adoption by the Director. Copies of all current rules will be posted on the Renewable Fuel Standard Program’s website.
  - 3. Notwithstanding Subsections 1. and 2., the Director may adopt an interim rule to temporarily suspend or modify the minimum biofuel content requirements, biofuel carbon intensity requirements, and exemptions of this

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Chapter based on the determination that such requirements are temporarily infeasible due to economic or technical circumstances. Interim rule may be adopted 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 calendar days. The Director may extend the interim rule past the 180 calendar days for good cause, as determined in the Director's sole discretion.

**16.60.020 Minimum Biofuel Content Requirements.**

(Amended by Ordinance Nos. 180671, 189820 and 191100, effective December 7, 2022.)

**A. Biodiesel and Renewable Diesel**

1. On and after May 15, 2024, all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within the City shall contain a minimum blend of 15 percent biodiesel or renewable diesel.
2. On and after July 1, 2024, all diesel fuel sold by fuel retailers, dispensed by nonretail dealers, or purchased by wholesale purchaser-consumers within the City shall contain a minimum blend of 15 percent biodiesel or renewable diesel.
3. On and after May 15, 2026, all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers, or wholesale purchaser-consumers within the City shall contain a minimum blend of 50 percent biodiesel or renewable diesel.
4. On and after July 1, 2026, all diesel fuel sold by fuel retailers, dispensed by nonretailer dealers, or purchased by wholesale purchaser-consumers within the City shall contain a minimum blend of 50 percent biodiesel or renewable diesel.
5. On and after May 15, 2030, all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers, or wholesale purchaser-consumers within the City shall contain a minimum blend of 99 percent biodiesel or renewable diesel.
6. On and after July 1, 2030, all diesel fuel sold by fuel retailers, dispensed by nonretailer dealers, or purchased by wholesale purchaser-consumers within the City shall contain a minimum blend of 99 percent biodiesel or renewable diesel.

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**B. Ethanol**

1. On and after September 16, 2007, all gasoline sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within City shall contain a minimum blend of 10 percent ethanol (E10 fuel). This requirement shall remain in effect on a year-round basis.
2. On and after November 1, 2007, all gasoline sold by fuel retailers, dispensed by nonretailer dealers or purchased by wholesale purchaser-consumers within City shall contain a minimum blend of 10 percent ethanol (E10 fuel). This requirement shall remain in effect on a year-round basis.

**C.** The Director shall establish, and revise as necessary, standards for biofuels sold in the City. The Director shall consult specifications established for biofuels by the American Society for Testing and Materials, the Oregon Department of Agriculture or similar specifications, in forming its standards.

**D.** Biodiesel produced from a feedstock of virgin or recycled palm oil may not be used to satisfy the requirements of this Chapter.

**E.** Biodiesel used to satisfy the requirements of this Chapter must not exceed 20 percent in any final diesel fuel blends. The foregoing does not limit voluntary sales of higher blends of biodiesel, as long as those blends are properly labeled in accordance with state or federal guidelines.

**F.** The Bureau of Planning and Sustainability must study and monitor biodiesel and renewable diesel production, use, and sales in Oregon and in the City through 2030.

**G.** Fuel retailers are required to conspicuously place signage denoting the type of biofuel mixture available for sale by the fuel retailer in accordance with the labeling guidelines or rules established by the Oregon Department of Agriculture or by the administrative rules adopted by the Director.

**16.60.025 Biofuel Carbon Intensity Requirements.**

(Replaced by Ordinance No. 191100, effective December 7, 2022.)

**A.** All biodiesel and renewable diesel sold in the City to satisfy the requirements of this Chapter must have a carbon intensity equal to or less than 40 gCO<sub>2</sub>e/MJ as certified by DEQ's Clean Fuels Program, Approved Carbon Intensity Values.

**B.** Carbon intensity requirements apply to biofuel blendstock, not the final blended products, which may contain a portion of petroleum-based diesel fuel at a higher carbon intensity.

**C.** The Director must establish and revise as necessary standards for carbon intensity of biofuels sold in the City and rules for enforcement and reporting procedures.



**16.60.030 Exemptions.**

(Amended by Ordinance Nos. 180671, 189820 and 191100, effective December 7, 2022.)

- A.** The requirements of Subsection 16.60.020 A.1. through 4. do not apply to any retailer offering a renewable diesel blend of 99 percent (R99 fuel) if such retailer, as of January 1, 2023, has: (1) a minimum of 120,000 gallons of onsite storage; and (2) a minimum of nine truck fueling lanes. Such retailer may also offer, on the same site or a contiguous site, diesel fuel that does not contain biofuels. This exemption expires on July 1, 2030.
- B.** The requirements of this Chapter do not apply to fuel used for the operation of railroad locomotives, watercraft, aircraft, or emergency equipment.
- C.** The requirements of this Chapter do not apply to any fuel used for vehicle test operations. For the purposes of product validation engineering, any reasonable market fuel required for validation may be procured at the sole discretion of the vehicle test operators, including any mix of ultra-low sulfur diesel, biodiesel, renewable diesel, or ethanol required for testing and in compliance with state and federal law.
- D.** The minimum biofuel content requirements in Subsections 16.60.020 A.1. and 2. do not apply to Portland-based vehicle manufacturing operations. On and after July 15, 2030, all Portland-based vehicle manufacturing operations must meet the requirements of this Chapter.
- E.** Nothing in this Chapter is intended to prohibit the production, sale, or use of motor fuel for use in federally designated flexibly fueled vehicles capable of using up to 85 percent ethanol fuel blends.

**16.60.040 Enforcement and Notice of Violation.**

(Amended by Ordinance Nos. 180671, 189820 and 191100, effective December 7, 2022.)

- A.** The Director, or designee, upon determining that a violation of this Chapter or associated administrative rules has occurred, will issue a written notice of the violation by certified mail to the fuel distributor, reseller or retailer. The notice will identify the violation and applicable penalty.
- B.** The fuel distributor, reseller or retailer shall, upon receipt of a notice of violation, correct the violation and pay to the City the stated penalty or appeal the finding of a violation to the Code Hearings Officer within 10 days of receipt of the notice.
- C.** A determination issued pursuant to Subsection 16.60.040 A. may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of City Code.

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**16.60.050 Penalties.**

(Amended by Ordinance No. 191100, effective December 7, 2022.) Violations of this Chapter may be punishable as follows:

- A.** A fine of up to \$10,000 for the first violation;
- B.** A fine of up to \$15,000 for each subsequent violation.

**16.60.060 Disclosure.**

(Amended by Ordinance Nos. 180671 and 191100, effective December 7, 2022.)

- A.** For all sales of biofuels blended products by fuel distributors or resellers for the purposes of meeting this Chapter, the distributor or reseller must provide a bill of lading or product transfer document disclosing biofuel content, stating volume percentage, gallons of biofuel per gallon finished fuel, or an “Bxx,” “Rxx”, or “Exx” designation where “xx” denotes the volume percent biofuel included in the blended product, and the feedstock from which the biofuel was derived.
- B.** Fuel retailers and nonretailer dealers dispensing fuel must maintain records for all biofuels sold in the City. Those records will be made available to the Bureau of Planning and Sustainability for the purposes of enforcement and reporting, as determined through rules adopted by the Director.

**16.60.070 Additional Regulations.**

(Repealed by Ordinance No. 191100, effective December 7, 2022.)

**CHAPTER 16.65 - FUNERAL PROCESSIONS**

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

**Section:**

16.65.010 Funeral Processions.

**16.65.010 Funeral Processions.**

As used in this Section, funeral procession means four or more motor vehicles accompanying the body of a deceased person in the daytime, when each of such vehicles has its headlights lighted.

- A.** Pedestrians and the operators of all vehicles, except emergency vehicles, must yield the right-of-way to each vehicle which is a part of a funeral procession. Whenever the lead vehicle in the funeral procession lawfully enters an intersection, the remainder of the vehicles in such a procession may continue to follow such lead vehicle through the intersection notwithstanding any traffic control device or right-of-way provisions prescribed by statute or ordinance, provided the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian upon the streets or highway.
- B.** No person may operate any vehicle as part of a funeral procession without having the headlights of such vehicle lighted.
- C.** No operator of a vehicle may drive between vehicles in a funeral procession which are properly identified while the procession is in motion, except when directed to do so by a police officer.

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**CHAPTER 16.70 - MISCELLANEOUS  
REGULATIONS**

**Sections:**

- 16.70.001 Purpose.
- 16.70.200 Pedestrians.
- 16.70.210 Must Use Crosswalks.
- 16.70.220 Must Cross at Right Angles.
- 16.70.230 To Obey Directions of School Traffic Patrol and Crossing Guard.
- 16.70.240 Bridge Railings.
- 16.70.300 Bicycles.
- 16.70.310 Persons Riding Bicycles to Obey Traffic Regulations.
- 16.70.320 Operating Rules.
- 16.70.330 Impounding Bicycles.
- 16.70.340 Renting Bicycles.
- 16.70.400 Other Transportation.
- 16.70.410 Roller Skates and Skateboards.
- 16.70.430 Train Switching Prohibited in Certain Areas
- 16.70.450 Off Street Parking Required for Trucks.
- 16.70.500 Traffic Regulations.
- 16.70.510 Trespassing - Leaving Pamphlet on Vehicle.
- 16.70.520 Hitching Onto Vehicle.
- 16.70.530 Central City Plan District Closed to Driving Lessons.
- 16.70.550 Vendor Traffic Regulations.
- 16.70.560 Traffic Regulations in Parks.
- 16.70.570 Inoperative Electric Traffic Control Signals.
- 16.70.600 Over Dimensional Vehicles.
- 16.70.610 General Prohibitions.
- 16.70.620 Exemptions.
- 16.70.630 Permits.
- 16.70.640 Limits of Authority to Issue Variance Permit.
- 16.70.650 Requirements, Conditions and Procedures for Issuance of Variance Permit;  
Duration; Cancellation.
- 16.70.660 Permit Must Be Carried and Displayed.
- 16.70.670 Movement of Building or Other Structure Excluded.
- 16.70.680 Liability for Damage to Streets or Other Public Property.
- 16.70.690 Designation of Streets for Vehicles of Excess Weight or Size.
- 16.70.700 Traffic Congestion Thoroughfares.
- 16.70.710 Purpose.
- 16.70.720 Posting Signs.
- 16.70.730 Signs.
- 16.70.740 Acts Prohibited.
- 16.70.750 Penalty.
- 16.70.760 Subsequent Violation.

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- 16.70.770 Notice of Towing For Subsequent Violations.
- 16.70.800 Visibility.
- 16.70.810 Street Obstructions and Dangerous Conditions.
- 16.70.900 Reckless Driving.

**16.70.001 Purpose.**

This Section provides traffic regulations in addition to those of the Oregon Revised Statutes that apply in the City of Portland.

**16.70.200 Pedestrians.**

**16.70.210 Must Use Crosswalks.**

No pedestrian may cross a street other than within a crosswalk if within 150 feet of a crosswalk.

**16.70.220 Must Cross at Right Angles.**

A pedestrian must cross a street at right angles unless crossing within a crosswalk.

**16.70.230 To Obey Directions of School Traffic Patrol and Crossing Guard.**

At intersections where a member of the school traffic patrol or crossing guard is stationed for the safety of school children, all pedestrians must obey the directions of such school traffic patrol member or crossing guard. It is unlawful for any pedestrian to cross at any intersection where such patrol member or crossing guard is stationed contrary to the direction of such school traffic patrol member or crossing guard.

**16.70.240 Bridge Railings.**

No pedestrians may sit, stand on, or lean their torso over a Willamette River bridge railing unless engaged in bridge maintenance work or otherwise authorized by an appropriate government agency.

**16.70.300 Bicycles.**

**16.70.310 Persons Riding Bicycles to Obey Traffic Regulations.**

Every person riding a bicycle upon a roadway is subject to state law and the provisions of this Title applicable to the driver of a vehicle, except state law and those provisions of this Title which by their very nature can have no application.

**16.70.320 Operating Rules.**

(Amended by Ordinance No. 165594, effective July 8, 1992.) No person may:

- A. Leave a bicycle so that it obstructs vehicle or pedestrian traffic on a roadway, sidewalk, driveway, handicap access ramp, building entrance, or so that it prevents operation of a parking meter or newspaper rack;
- B. Leave a bicycle secured to a fire hydrant or to a police or fire call box;

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- C. Leave a bicycle on private property without consent of the owner or legal tenant. Consent is implied on private commercial property;
- D. Leave a bicycle on a street or other public property for more than 72 hours; or
- E. Ride a bicycle on a sidewalk, unless avoiding a traffic hazard in the immediate area, within the area bounded by and including SW Jefferson, Front Avenue, NW Hoyt and 13th Avenue, except:
  - 1. On sidewalks designated as bike lanes or paths;
  - 2. On the ramps or approaches to any Willamette River Bridge; or
  - 3. In the area bounded by the west property line of SW Ninth Avenue, the east property line of SW Park Avenue, the north property line of SW Jefferson and the south property line of SW Salmon Street.
  - 4. For police or special officers operating a bicycle in the course and scope of their duties; or
  - 5. For employees of the Association for Portland Progress and companies providing security services operating a bicycle in the course and scope of their duties. These employees must have in possession an identification card issued by the Chief of Police certifying the rider has completed a training course in the use of a bicycle for security patrol.

**16.70.330 Impounding Bicycles.**

- A. A bicycle left on a street or other public property for more than 72 hours may be impounded.
- B. A bicycle may be immediately impounded if:
  - 1. It is parked in violation of this code and obstructs or impedes pedestrian or vehicular traffic; or
  - 2. It is an immediate threat to the public welfare.
- C. The impounding agency must make reasonable efforts to notify the owner of the impoundment and a description of how and by what date the bicycle must be claimed.
- D. A fee may be charged to the owner of an impounded bicycle. No impoundment fee will be charged to the owner of a stolen bicycle that has been impounded.

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- E. An impounded bicycle that remains unclaimed after 30 days may be disposed of in accordance with city procedures for disposal of abandoned or lost personal property.

**16.70.340 Renting Bicycles.**

No person may rent a bicycle to another person unless the bicycle is equipped as required by state law.

**16.70.400 Other Transportation.**

**16.70.410 Roller Skates and Skateboards.**

(Replaced by Ordinance No. 185596, effective September 5, 2012.)

- A. No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any sidewalk within the area bounded by and including SW Jefferson, Naito Parkway, NW Hoyt and 13th Avenue. The middle and bisecting sidewalks in the Park Blocks are considered sidewalks for the purposes of this Subsection.
- B. No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, roadway or sidewalk on
  - 1. SW 5th or 6th Avenues between SW Lincoln and Burnside; and on
  - 2. NW 5th or 6th Avenues between Burnside and Union Station.
- C. No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, roadway or sidewalk between the hours of 10 p.m. and 7 a.m. on
  - 1. SW Fairview Boulevard between SW Knights Boulevard and SW Kingston Avenue;
  - 2. SW Kingston Avenue between SW Tichner Drive and the Washington Park entrance;
  - 3. SW Tichner Drive between SW Kingston Avenue and SW Marconi Avenue;
  - 4. SW Marconi Avenue;
  - 5. SW Park Place between SW Marconi Avenue and SW Wright Avenue;
  - 6. SW Lafayette Place;

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7. SW Hampshire Street between SW Lafayette Place and SW Champlain Drive;
  8. SW Champlain Drive between SW Hampshire Street and SW Rutland Terrace;
  9. SW Rutland Terrace; and
  10. West Burnside Street from Skyline Boulevard to SW Vista Avenue.
- D.** No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, roadway or sidewalk while attached in any manner to any motor vehicle on the roadway. In addition, a person shall not knowingly drive a motor vehicle that is towing a person riding same.
- E.** All persons using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power must while on a public street, traveling at less than the speed limit of the roadway shall yield to vehicles approaching from the rear by moving to the right curb or shoulder of the street.
- F.** During limited visibility conditions and between the hours of sunset and sunrise, all persons using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power must be equipped with and use lighting equipment that shows a white light visible from a distance of at least 500 feet to the front of the device.
- G.** During limited visibility conditions and between the hours of sunset and sunrise, all persons using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power must be equipped with and use lighting equipment that has a red reflector or lighting device or material of such size or characteristic and so mounted, carried or worn as to be visible from all distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.
- H.** The penalty for failing to follow the rules of Subsections A. - G. shall be a minimum fine of \$115.
- I.** All persons under 16 years of age shall wear protective headgear when using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, sidewalk, or bridge. The penalty for failure to wear protective headgear as required in this subsection shall be a maximum fine of \$25.
- J.** Except for those provisions by their very nature can have no application, this subsection adopts the Oregon Motor Vehicle Code's rules of the road for vehicle



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drivers to regulate the use of roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon a public highway in the City. Riders of such devices are subject to the provisions applicable to, and have the same rights and duties provided any driver of a vehicle by the Oregon Vehicle Code concerning operating on highways except when otherwise specifically provided in this Code.

1. The penalty for failing to follow the rules of the road incorporated by Subsection J. shall be a fine of \$250.
  - a. First time offenders of this Code are eligible to participate in Share the Road or similar program in lieu of the fine.

**K.** This Section does not apply to bicycles as defined by Section 16.90.025 of this Code.

**16.70.430 Train Switching Prohibited in Certain Areas.**

- A.** On railroad tracks located in NW 12th Avenue between West Burnside and NW Hoyt Streets, and on railroad tracks located on NW Flanders Street, between NW 12th Avenue and NW Front Avenue, it is unlawful for any person to direct, cause, or permit switching movements of freight cars between the hours of 6 a.m. and 7 p.m.
- B.** No person may direct, cause, or permit any railroad equipment to be left or parked on the main line tracks of these streets.

**16.70.450 Off-Street Parking Required for Trucks.**

A person owning or controlling any truck or truck trailer must provide at his or her own expense complete off-street parking facilities for the storage of all such equipment.

**16.70.500 Traffic Regulations.**

**16.70.510 Trespassing - Leaving Pamphlet On Vehicle.**

(Amended by Ordinance No. 165987, November 12, 1992.)

- A.** It is unlawful for any person to ride or trespass upon or within any motor vehicle without the consent of the owner or operator thereof.
- B.** It is unlawful for any person to post, stick, or place upon or within any motor vehicle any card, notice, handbill, leaflet, pamphlet, survey, or similar matter without the consent of the owner or operator.
- C.** The provisions of this Section do not apply to any card, notice, handbill, leaflet, pamphlet, survey, or similar matter placed upon or within such motor vehicle by

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authority of law, by an authorized officer of the City, County, or State or by a designee of the City Traffic Engineer.

**16.70.520 Hitching Onto Vehicle.**

- A. It is unlawful for any person riding upon any vehicle, sled, or other conveyance to hitch or hold on to any part of another vehicle or conveyance for the purpose of being propelled or drawn along any street or highway within the City.
- B. Nothing contained in this Section is deemed to prohibit the coupling of one or more motor vehicles or motor vehicle and trailer in the manner approved by ORS 818.

**16.70.530 Central City Plan District Closed to Driving Lessons.**

It is unlawful for any person to give or receive lessons or instructions in driving or operating any vehicle upon any street, except interstate freeways, in the Central City Plan District except for access directly to and from an institution or business located in the Central City Plan District. This Section does not apply to an applicant for a motor vehicle operator's license when accompanied by an examiner from the office of the Department of Motor Vehicles of Oregon.

**16.70.550 Vendor Traffic Regulations.**

(Amended by Ordinance Nos. 165594, 166575, and 176585, effective July 5, 2002.)

- A. It is unlawful for any:
  - 1. Vehicle, cart, or temporary stand used to conduct business to be left unattended for 30 or more minutes or parked or stored over night on any public grounds, street, or highway. See also: 14A.50.030, 14A.50.040, 14A.50.050, 16.20.150 D., 16.60.100 F., 17.25, 17.26.
  - 2. Vendor to conduct business in a roadway adjacent to or directly across from residential property for a period longer than 10 minutes within any block face. Such vendor must vacate said block face for a period of 2 hours upon expiration of the 10-minute limit.
- B. Whenever, in the judgement of the Bureau of Police, traffic is or will be congested in and around an area being used by a vendor, the Bureau of Police is hereby given authority to cause said vendors to move and remain out of the congested area.

**16.70.560 Traffic Regulations in Parks.**

(Amended by Ordinance Nos. 165594 and 187564, effective January 27, 2016.)

- A. Except as otherwise provided in this Section, the provisions of this Title regulating street traffic and parking apply to driving or parking a vehicle in a City park or golf course.

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- B.** With approval of the Commissioner In Charge, the Director of Portland Parks & Recreation may restrict or prohibit traffic or types of traffic and parking in City parks as defined in Title 20. Signs giving notice of any restriction or prohibition imposed under this Subsection shall be posted and maintained by the Director of Portland Parks & Recreation in a conspicuous manner and place to inform the public. It is unlawful for any person to violate any restriction or prohibition imposed under this Subsection after notice thereof has been posted.
- C.** The Bureau of Police or the Director of Portland Parks & Recreation or the Director's designee has authority to enforce the provisions of this Section and is authorized to order that a vehicle parked in violation of such restrictions or prohibitions be towed in the manner provided in this Title.
- D.** The provisions of this Section do not apply to City authorized vehicles used in park or golf course service.

**16.70.570 Inoperative Electric Traffic Control Signals.**

An intersection with inoperative electric traffic control signals shall be treated as an uncontrolled intersection, unless other official traffic control devices have been erected at the intersection. This Section does not apply to freeway ramp metering signals operated by the Oregon Department of Transportation.

**16.70.600 Over Dimensional Vehicles.**

**16.70.610 General Prohibitions.**

- A.** It is unlawful for any person or owner to drive, move, or to cause or permit to be driven or moved on any street in the City any vehicle or combination of vehicles that:
  - 1.** Exceeds the weight or size limitations set forth in the Oregon Revised Statutes (ORS), Chapter 818;
  - 2.** Is not constructed or equipped as required by ORS 818;
  - 3.** Is dragging upon or over the surface of a street any log, pole, piling, or other thing;
  - 4.** Does not move exclusively on revolving wheels or rotating tracks in contact with the surface of the street;
  - 5.** Is so constructed or loaded so as to allow its contents to drop, sift, leak, or otherwise escape therefrom; or
  - 6.** Violates any other provisions of this Title.

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- B.** Operation of any vehicle or combination of vehicles in violation of the provisions of this Chapter is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed pursuant to ORS 818.

**16.70.620 Exemptions.**

- A.** The provisions of this Chapter governing size and weight do not apply to:
  - 1.** Any vehicle, combination of vehicles, article, machine, or other equipment in use by the Federal Government, the State of Oregon, or any county or city while in the immediate vicinity of and involved with the construction, maintenance, or repair of public highways;
  - 2.** Any vehicle in use by a mass transit district for the purposes authorized under ORS 267.010 to ORS 267.390, provided the size or weight of the vehicle is approved by the City for that route; or
  - 3.** Any vehicle, combination of vehicles, article, machine, or other equipment operated under a permit issued by the Traffic Engineer and in compliance with the conditions and restrictions thereof.
- B.** None of the size limits described in ORS 818, except the maximum limit of allowable extension beyond the last axle of a combination of vehicles, apply to agricultural equipment hauled, towed, or moved upon any street if the movement is incidental to the farming operations of the owner of the agricultural equipment.

**16.70.630 Permits.**

Under authority granted in Section 16.10.200, the Traffic Engineer may grant written permits for the operation over City streets, or sections thereof, of any vehicle or combination of vehicles, including any load thereon, having:

- A.** A gross weight;
- B.** A length;
- C.** A width;
- D.** A height; or
- E.** A maximum number of vehicles in combination; in excess of that authorized in ORS 818 or administratively imposed weight or size limits designated in accordance to 16.70.690.

**16.70.640 Limits of Authority to Issue Variance Permit.**

A permit may not be issued for any vehicle or load that can readily or reasonably be dismantled or disassembled to reduce weight or width. This does not apply to any vehicle, combination of vehicles, load, article, property, machine, or thing that is:

- A. Used in the immediate vicinity of construction, maintenance, or repair of public highways; and
- B. Of a length in excess of that permitted in ORS 818.

**16.70.650 Requirements, Conditions and Procedures for Issuance of Variance Permit; Duration; Cancellation.**

(Amended by Ordinance Nos. 176361 and 181217, effective September 14, 2007.)

- A. In issuing a permit, the Traffic Engineer may:
  - 1. Grant a permit that is valid for a single trip, a number of trips or an amount of time not to exceed one year.
  - 2. Establish seasonal or other time limitations on a permit.
  - 3. Require the applicant to furnish public liability or automobile insurance and property damage insurance as follows:
    - a. General Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage; or
    - b. Automobile Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage, including coverage for owned, hired or nonowned vehicles, as applicable; and
    - c. The City of Portland, and its agents, officers, and employees are Additional Insured, but only with respect to operations occurring within the scope of the permit.
    - d. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30-days written notice from the Contractor or its insurer(s) to the City.
    - e. As evidence of the insurance coverage required, the applicant shall furnish acceptable insurance certificates to the City prior to issuance of any permit. The certificate will specify that the City is additional insured and will include the 30-day cancellation clause. Insuring companies or entities are subject to City acceptance. The applicant

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shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

4. Require the applicant to furnish indemnity insurance or an indemnity bond in an amount fixed by the Traffic Engineer to:
    - a. Reimburse the City of Portland for any damage to the highways or streets that may be caused under the permit; and
    - b. Indemnify the members, officers, employees, and agents of the City of Portland from any claim that might arise from the granting of the permit and from the use of the highways under the permit.
  5. Require a demonstration by the applicant to establish that any vehicle, combination of vehicles, load, article, property, machine, or thing in operation under a permit would:
    - a. Stay on the right side of the center line of the traveled way at all times; and
    - b. Allow sufficient room in the opposing traffic lane for the safe movement of other vehicles.
- B.** A permit must be in writing and must specify:
1. All highways or streets over which the permit is valid;
  2. Any vehicle, combination of vehicles, load, article, property, machine, or thing allowed under the permit; and
  3. Maximum dimensions and maximum weights allowed under the permit.
- C.** Under this section, the Traffic Engineer may not issue a permit that is valid for longer than 1 year.
- D.** An application for a permit issued under this section must specify:
1. The vehicle, combination of vehicles, load, article, property, machine, or thing for which the permit is requested;
  2. The particular highways and streets for which the permit is sought; and
  3. Whether the permit is sought for a single trip, a number of trips or continuous operation.
- E.** This Section does not authorize:

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1. Any vehicle, combination of vehicles, load, article, property, machine, or thing for which the permit is issued to be operated or moved contrary to any provisions of the vehicle code, except as specified in a permit; or
  2. Any movement or operation of a vehicle, combination of vehicles, load, article, property, machine, or thing until a permit is issued.
  3. Any vehicle, combination of vehicles, load, article, property, machine, or thing which is eligible for a permit under the State of Oregon Continuous Operation Variance Permit program as described in OAR 734.074.0010.
- F.** The City Traffic Engineer may be present during the movement. The presence of the City Traffic Engineer and any directions or suggestion made by him/her is not to be considered supervision of the movement and does not relieve the permit holder or the permit holder's insurers or sureties from liability for any damage done by the movement. If there are any of the permit's terms or conditions with which the movement does not comply, the City Traffic Engineer who is present at the movement may order it to be stopped.
- G.** Any permit may be canceled at any time by the City Traffic Engineer upon satisfactory proof that:
1. The permit holder has violated any of the terms of the permit;
  2. The permit was obtained through misrepresentation in the application therefor; or
  3. The public interest requires cancellation.

**16.70.660 Permit Must Be Carried and Displayed.**

- A.** The driver of any vehicle or combination of vehicles for which a variance permit has been issued commits the offense of failure to carry and display a variance permit if the driver does not:
1. Have the variance permit in immediate possession at all times when driving the vehicle or combination of vehicles upon a public highway or street; and
  2. Display the variance permit upon demand of any police officer, department or county weighmaster, judicial officer, or the City Traffic Engineer.
- B.** Later producing a variance permit issued prior to and valid at the time of an offense by authority of this section is not a defense for a charge under this Section.

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#### **16.70.670 Movement of Building or Other Structure Excluded.**

The movement of buildings or other structures on or over the streets and other public right-of-ways of the City is excluded from the provisions of this Chapter. (See Chapter 17.48, Public Improvements.)

#### **16.70.680 Liability for Damage to Streets or Other Public Property.**

Any person moving any vehicle of excess weight or size on or over any street or other public right-of-way in the City is responsible for damage to pavement or other public improvement or property caused thereby.

#### **16.70.690 Designation of Streets for Vehicles of Excess Weight or Size.**

- A.** When in the judgement of the City Traffic Engineer any City street or section thereof is capable of carrying any vehicle or combination of vehicles having a gross weight or overall size in excess of that authorized in ORS 818, the City Traffic Engineer may report to the City Council so declaring that street and fixing the maximum gross weight, width, height, and/or length and types and classes of vehicles or combination of vehicles which may be operated thereon.
- B.** The provisions of any report accepted by the City Council pursuant to recommendation of the City Traffic Engineer under this Section may be changed or rescinded at any time and is subject to any order made pursuant to Section 16.10.200.
- C.** If a report submitted by the City Traffic Engineer under this Section is accepted by the City Council, a duplicate original thereof (and any amendment or revocation thereof) must be filed by the Auditor with the Secretary of State. After such resolution is adopted and filed, no permit is required for the operation upon such street or section thereof of a vehicle or combination of vehicles not exceeding the maximum gross weight and length fixed by the report for vehicles or combinations of vehicles of that type and class.

#### **16.70.700 Traffic Congestion Thoroughfares.**

##### **16.70.701 Purpose.**

The purpose of this Chapter is to prohibit the repeated driving of a motor vehicle along and across one portion of a congested public street, which constitutes a strict liability violation without any requirement of culpable mental state, all as described in this Chapter.

##### **16.70.720 Posting Signs.**

With respect to any traffic congestion thoroughfare, the Chief of the Bureau of Police or his/her designee is authorized to declare that portion of the street to be a traffic congestion thoroughfare and to cause signs, as described in this Chapter, to be posted notifying of that designation.



**16.70.730 Signs.**

The signs referred to in Section 16.70.720 will notify drivers that they are entering a traffic congestion thoroughfare; that repeated passage of a motor vehicle through or across the traffic congestion thoroughfare is a violation of City Code Section 16.70.740; and that for a subsequent violation, the vehicle will be towed.

**16.70.740 Acts Prohibited.**

Between the hours of 9 p.m. and 5 a.m. of the following morning, no vehicle may pass along or across a traffic congestion thoroughfare, designated as such by signs as described in Section 16.70.730, more than two times.

**16.70.750 Penalty.**

(Amended by Ordinance Nos. 165987 and 176394, effective April 17, 2002. Corrected under authority of PCC Section 1.01.035 on May 15, 2017.)

- A. Except as provided below, violation of this Chapter is an infraction punishable by a fine not to exceed \$150.
- B. Violation of Sections 16.20.470, 16.70.510 A. and 16.10.060, is punishable by a fine of not more than \$500, or by imprisonment not exceeding 10 days or both.

**16.70.760 Subsequent Violation.**

If a vehicle passes along or across a traffic congestion thoroughfare as designated by signs in violation of Section 16.70.740, any single subsequent drive-through of that traffic congestion thoroughfare by that vehicle within the same 9 p.m. to 5 a.m. time period constitutes a separate violation of Section 16.70.740, punishable as provided in section 16.70.750; and the vehicle may be towed and taken to a storage area designated by the City and may be held for not more than 24 hours, all at the expense of the owner or person entitled to possession.

**16.70.770 Notice of Towing For Subsequent Violations.**

Upon issuing a citation for a violation of Section 16.70.740, the officer will give the person to whom the citation is issued a written notice which will state:

NOTICE

You have been cited for violation of Code Section 16.70.740 for repeated passage of a motor vehicle on or across a traffic congestion thoroughfare.

If the vehicle you are driving is again driven along or across this traffic congestion thoroughfare before 5 a.m. this morning, this vehicle may be impounded and towed in accordance with City Code Section 16.70.760.

Chief of the Bureau of Police

**16.70.780 Exemptions.**

This Section does not apply to:

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- A. Any publicly owned vehicle of any city, county, public district, state, or federal agency;
- B. Any vehicle licensed for public transportation; or
- C. Any other vehicle granted an exemption by the Chief of Police because passage of the vehicle along or across the traffic congestion thoroughfare is necessary for commercial or medical reasons.

**16.70.800 Visibility.**

(Amended by Ordinance Nos. 165987, 173369, 183397, 184522, 185448 and 186053, effective January 1, 2015.)

- A. It is the responsibility of the owner or occupant of any property to prevent any vegetation including trees on the property or the abutting public right-of-way from partially or wholly obstructing the visibility of traffic control devices, the visibility of or for drivers, bicyclists, or pedestrians, or in any way presents a safety hazard.
- B. The person who owns or occupies said property is liable to any person who is injured or otherwise suffers damage by reason of the failure to remove or prune such vegetation as required by Title 16 or any other Title of the City Code. Furthermore, said person is liable to the City of Portland for any judgement or expense incurred or paid by the City, by reason of said person's failure to satisfy the obligations imposed by this or any other Title of the City Code.
- C. Any tree removal or pruning required by this Title shall be done in accordance with the provisions of Title 11, including the need to obtain tree permits for removal and pruning.
- D. Vegetation, including trees, in green street or other public stormwater management facilities, shall be trimmed only by the City or under the authorization of the Bureau of Environmental Services (BES).
- E. Any vegetation or tree not removed or pruned as required in this Title is hereby declared to be a public nuisance and may be summarily abated as provided in Title 29.
- F. Whenever the provisions of this section conflict with those of any other section of this code, including but not limited to Titles 11, 16, 17 and 33, the stricter provisions shall govern.

**16.70.810 Street Obstructions and Dangerous Conditions.**

(Added by Ordinance No. 176585, effective July 5, 2002.) No person, whether acting as private citizen, principal, employee or agent shall:

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- A. Between the hours of sunset and sunrise, place or allow to remain on any street any obstruction, other than a lawfully parked vehicle or any permitted structure, unless a clearly displayed warning light or lights are:
  - 1. plainly visible for 200 feet in either direction parallel to the street and at least 25 feet in all other directions, and
  - 2. placed on the edge or side of the obstruction nearest the center of the street.
- B. At any time, create a dangerous condition on any street without erecting and maintaining a distinctly visible barricade which provides a clear indication of the danger and directs people safely around it; and/or
- C. Remove such a barricade from any street while the danger continues.

**16.70.900 Reckless Driving.**

(Added by Ordinance No. 173097, effective by February 10, 1999.)

- A. A driver of a vehicle commits the crime of reckless driving within the City of Portland if the driver commits two or more of the following violations in a single series of acts in such a way as to endanger the safety of persons or property:
  - 1. Unlawful or unsignaled lane change;
  - 2. Unsafe passing on the left or right;
  - 3. Passing in a no-passing zone;
  - 4. Following too close;
  - 5. Illegal backing;
  - 6. Unlawful stop or deceleration;
  - 7. Failure to signal;
  - 8. Violation of maximum speed limit in an urban area; or
  - 9. Taking other actions that a reasonable driver would know endanger the safety of persons or property in a congested urban driving environment such as the City of Portland.
- B. Violation of this law shall constitute a Class A Misdemeanor as prescribed in State law.

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**CHAPTER 16.90 - DEFINITIONS**

**Sections:**

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16.90.005	Abandoned Vehicle.
16.90.010	Accessory Recreational Vehicle.
16.90.015	Alley.
16.90.020	Angle Loading.
16.90.025	Bicycle.
16.90.030	Bicycle Boulevard.
16.90.032	Bicycle Lane.
16.90.034	Bikeway, Shoulder.
16.90.036	Bikeway, Extra Width Curb Lane.
16.90.038	Bikeway, Off-Street Path.
16.90.040	Bikeway, Signed Connection.
16.90.045	Block Face.
16.90.055	Carpool Vehicle.
16.90.060	Central City Plan District.
16.90.065	City Recognized Holidays.
16.90.070	Compact Car.
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16.90.080	Construction Zone.
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16.90.100	Driver.
16.90.105	Driveway.
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16.90.115	Emergency Vehicles.
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16.90.130	Gross Vehicle Weight Rating.
16.90.135	Guest.
16.90.140	Handicap Access Ramp.
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16.90.150	Improper Use.
16.90.155	Intersection.
16.90.160	Light Rail Transit System.
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16.90.170	Load/Unload.
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16.90.190	Motor Bus.
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16.90.200	Motor Vehicle.
16.90.205	Municipal Terminal.
16.90.210	Official.
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16.90.240	Parking Lane.
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16.90.249	Meter Area Space Reservation Device.
16.90.250	Pedestrian.
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16.90.260	Permanently Exhibit.
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16.90.270	Planting Strip.
16.90.275	Private Road.
16.90.285	Rail Vehicles.
16.90.290	Recreational Vehicle.
16.90.295	Regulated Parking Zone.
16.90.300	Repair (a vehicle).
16.90.302	Right-of-Way.
16.90.305	Roadway.
16.90.310	School Bus.
16.90.315	Service (a vehicle).
16.90.320	Short-Term Parking Meter.
16.90.325	Shoulder.
16.90.330	Sidewalk.
16.90.335	Skateboard.
16.90.340	Sled.
16.90.345	Stop, Stopping or Stopped.
16.90.350	Street or Highway.
16.90.351	Storage Container.
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16.90.370	Traffic Congestion Thoroughfare.
16.90.375	Traffic Control Device.
16.90.380	Traffic Control Signal.
16.90.385	Traffic Hazard.
16.90.390	Traffic Lane.

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- 16.90.392 Transit Mall and Auxiliary Vehicular Lanes.
- 16.90.395 Tri-Met Bus.
- 16.90.400 Trolley or Streetcar.
- 16.90.405 Truck.
- 16.90.410 Truck Trailer.
- 16.90.415 Uncontrolled Intersection.
- 16.90.420 Utility Trailer.
- 16.90.421 Valid Receipt.
- 16.90.425 Vehicle.
- 16.90.430 Vehicle Alarm System.
- 16.90.435 Vendor.
- 16.90.440 Way.
- 16.90.445 Wheelchair User Disabled Permit/Placard.

**16.90.001 Generally.**

The following words and phrases when used in this Title shall, for the purpose of this Title, have the meanings respectively ascribed to them in this Chapter, except in those instances where the context clearly indicates a different meaning. Definitions of words and phrases in the Oregon Revised Statutes may be applied unless defined differently in this Title or in those instances where the context clearly indicates a different meaning.

**16.90.005 Abandoned Vehicle.**

(Amended by Ordinance No. 179141, effective March 23, 2005.) A vehicle that remains in violation for more than 24 hours and one or more of the following conditions exist:

- A. The vehicle does not have a lawfully affixed, unexpired registration plate, or fails to display current registration.
- B. The vehicle appears to be inoperative or disabled.
- C. The vehicle appears to be wrecked, partially dismantled or junked.

**16.90.010 Accessory Recreational Vehicle.**

See Recreational Vehicle.

**16.90.015 Alley.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) A facility primarily intended to provide access to the rear or side of lots or buildings in urban areas and not intended for through vehicular movement.

**16.90.020 Angle Loading.**

When a vehicle is parked at an angle to traffic flow for the purpose of loading/unloading and extends into the public right-of-way anywhere outside of a legal parking area.

**16.90.025 Bicycle.**

A type of vehicle that:

- A. Is designed to be operated on the ground on wheels;
- B. Has a seat or saddle for use of the rider;
- C. Is designed to travel with not more than three wheels in contact with the ground;
- D. Is propelled exclusively by human power; and
- E. Has every wheel more than 14 inches in diameter or two tandem wheels either of which is more than 14 inches in diameter.

**16.90.030 Bicycle Boulevard.**

(Replaced by Ordinance No. 177028, effective December 14, 2002.) A roadway with low vehicle traffic volumes where the movement of bicycles is given priority.

**16.90.032 Bicycle Lane.**

(Added by Ordinance No. 177028, effective December 14, 2002.) The part of the street designated by official signs or markings for the movement of persons riding bicycles except as otherwise specifically provided by law.

**16.90.034 Bikeway, Shoulder.**

(Added by Ordinance No. 177028, effective December 14, 2002.) A street upon which the paved shoulder, separated by a four-inch stripe and no bicycle lane markings, is used for the movement of persons riding bicycles. Auto parking is also allowed on shoulders marked in this manner.

**16.90.035 Bicycle Path.**

(Repealed by Ordinance No. 177028, effective December 14, 2002.)

**16.90.036 Bikeway, Extra Width Curb Lane.**

(Added by Ordinance No. 177028, effective December 14, 2002.) A wider than normal curbside travel lane provided to give extra room for the movement of persons riding bicycles where there is insufficient space for a bicycle lane or shoulder bikeway.

**16.90.038 Bikeway, Off-Street Path.**

(Added by Ordinance No. 177028, effective December 14, 2002.) An off-street path for the movement of persons riding bicycles that is physically separated from motorized vehicular traffic by an open space or barrier and either within a street right-of-way, but not in the roadway, or within an independent right-of-way or dedicated easement.

**16.90.040 Bikeway, Signed Connection.**

(Replaced by Ordinance No 177028, effective December 14, 2002.) A bikeway upon which signing is placed to direct bicyclists to a destination or another bikeway.

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**16.90.045 Block Face.**

The area between the line separating a public right-of-way from private property and the center line of a street or highway, and between the midpoint of two intersections.

**16.90.050 Bureau of Transportation System Management.**

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

**16.90.055 Carpool Vehicle.**

- A.** Any vehicle that is designed by its manufacturer to seat three or more people and is utilized to transport on a regular basis, three or more people including the driver, from a point of origin to a destination.
- B.** For the purpose of this Title of the City Code, carpool vehicle specifically means any vehicle described in A. above, which displays a carpool permit issued by the Tri-County Metropolitan Transportation District of Oregon.

**16.90.060 Central City Plan District.**

The Central City Plan District is defined in Title 33 of this code. For purposes of this Title, however, regulations that apply to the Central City Plan District apply to the whole street (up to the property line or extension of a property line to the corner of a property line across an intersection) of the streets whose center lines serve as boundaries to the Central City Plan District.

**16.90.065 City Recognized Holidays.**

City recognized holidays are:

- A.** New Year's Day;
- B.** Martin Luther King Jr.'s Birthday;
- C.** President's Day;
- D.** Memorial Day;
- E.** Fourth of July;
- F.** Labor Day;
- G.** Veteran's Day;
- H.** Thanksgiving Day; and
- I.** Christmas Day.

A day begins at 12:00:00 a.m. and ends at 11:59:59 p.m.



**16.90.070 Compact Car.**

Any vehicle which will fit within the space lines of a space designated for compact cars by official signs or markings.

**16.90.075 Conduct Business.**

The act of selling or attempting to sell services, or edible or nonedible items for immediate delivery.

**16.90.080 Construction Zone.**

The space adjacent to the curb and in immediate proximity to the premises where construction, alteration, remodeling, repairing, or similar work is in progress, and designated by official parking meter or sign hoods, signs, or markings.

**16.90.085 Crosswalk.**

Any portion of a roadway at an inter-section or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway that conform in design to the standards established for crosswalks under ORS 810.200. Whenever marked cross- walks have been indicated, such cross- walks and no other shall be deemed lawful across such roadway at that intersection. Where no marked crosswalk exists, a crosswalk is that portion of the roadway described in the following:

- A.** Where sidewalks, shoulders or a combination thereof exists, a crosswalk is the portion of a roadway at an intersection, not more than 20 feet in width as measured from the prolongation of the lateral line of the roadway toward the prolongation of the adjacent property line, that is included within:
  - 1.** The connections of the lateral lines of the sidewalks, shoulders, or a combination thereof on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traveled roadway; or
  - 2.** The prolongation of the lateral lines of a sidewalk, shoulder, or both, to the sidewalk or shoulder on the opposite side of the street, if the prolongation would meet such sidewalk or shoulder.
- B.** If there is neither sidewalk nor shoulder, a crosswalk is the portion of the roadway at an intersection, measuring not less than 6 feet in width, that would be included within the prolongation of the lateral lines of the sidewalk, shoulder or both on the opposite side of the street or highway if there were a sidewalk.

**16.90.090 Curb.**

Any raised margin defining the space in the street devoted to vehicular traffic.

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**16.90.095 Curb Line.**

The curb line separates a street or highway into the area dedicated to vehicle traffic (roadway) and the area dedicated to pedestrian and nonmotor vehicle traffic (planting strip, sidewalk, etc.).

**16.90.097 Disabled Person Permit/Placard.**

(Added by Ordinance No. 186575, effective July 1, 2014.) Any official State-issued disabled person registration plate, placard, permit or decal, including: Regular, Program, Family, Motorcycle, Golf Cart or any other placard not issued specifically for “Wheelchair Only”.

**16.90.100 Driver.**

The rider, driver, or leader of any animal or vehicle that is not self-propelled and the operator of any vehicle that is self-propelled.

**16.90.105 Driveway.**

**A.** A road or access, whether improved or unimproved, extending from a public right-of-way onto private or public lands or structures for the purpose of gaining vehicular access to such areas and reasonably designated at the property line so as to be an obvious opening for access. For purposes of enforcement, a driveway:

1. Extends from one curb return to the other;
2. If winged, includes the wings; or
3. If the street is unimproved, the driveway area falls between the projections of the edges of an improved driveway or the most established tire ruts of an unimproved driveway.

**B.** Such road or access will be enforced as a driveway unless closed by a structure or permanent closure device.

**16.90.110 Drop Box.**

A container in which trash or any other refuse material is temporarily stored or collected. For the purposes of Title 16, a drop box will be considered a vehicle in terms of parking provisions and restrictions.

**16.90.115 Emergency Vehicles.**

(Amended by Ordinance No. 180917, effective May 26, 2007.) Vehicles of Portland Fire & Rescue, police vehicles, emergency vehicles of municipal departments, and ambulances while being used for emergency purposes and displaying lights as required by the Oregon Revised Statutes.

**16.90.120 Fire Station.**

Any building used for the purpose of housing fire apparatus of the City.

**16.90.125 Fog Line or Edge Line.**

The official 4-inch wide marking that defines the lateral lines of a roadway.

**16.90.130 Gross Vehicle Weight Rating.**

The value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle or the registration weight, whichever is greater.

**16.90.135 Guest.**

As used in a regulated parking zone sign, means a patron or visitor to the adjacent hotel.

**16.90.140 Handicap Access Ramp.**

An inclination, ramp-like structure, or any other such device designed to serve and provide ease of access from the sidewalk to the roadway or from the street to adjacent property for individuals using a mobility aid. If winged, it includes the winged area of the structure.

**16.90.145 Hotel.**

Any structure intended or designed for transient occupancy and which offers more than 25 percent of its rooms for dwelling, lodging or sleeping purposes for less than a 30 day period.

**16.90.150 Improper Use.**

Improper use occurs when a permit holder violates the provisions described on the permit application.

**16.90.155 Intersection.**

The area of a roadway created when two or more public roadways join together at any angle, as described in one of the following:

- A. If the roadways have curbs, the intersection is the area embraced within the prolongation or connection of the lateral curb lines.
- B. If the roadways do not have curbs, the intersection is the area embraced within the prolongation or connection of the lateral boundary lines of the roadways.
- C. The junction of an alley with a roadway does not constitute an intersection.
- D. Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersection highway is a separate intersection. In the event the intersection highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways is a separate intersection.

**16.90.160 Light Rail Transit System.**

A commuter transit mode consisting of steel-wheeled rail vehicles, powered electrically through overhead lines, operating predominately on exclusive right-of-way that need not be grade separated.

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**16.90.165 Light Rail Vehicle.**

A component car in a light rail transit system.

**16.90.170 Load/Unload.**

To load or unload a vehicle means to be actively engaged in removing merchandise from or putting merchandise in a vehicle.

**16.90.175 Local Authorities.**

Every county, municipality, and other local board or body having authority to adopt local police regulations under the constitution and laws of this State.

**16.90.180 Long-Term Parking Meter.**

A parking meter with a designated time limit of more than 4 hours.

**16.90.185 Mobile Construction Trailer.**

A trailer that is used temporarily in conjunction with a construction site for office and other related purposes.

**16.90.190 Motor Bus.**

Every motor vehicle designed or used for carrying passengers and their personal baggage for compensation. The term “motor bus” does not mean or include taxicabs designed or constructed to accommodate and transport not more than five passengers, exclusive of the driver, and fitted with taximeters or using or having some other device, method, or system to indicate and determine the passenger fare paid for distance traveled.

**16.90.195 Motor Home.**

See Recreational Vehicle.

**16.90.200 Motor Vehicle.**

Every inanimate vehicle which is self-propelled.

**16.90.205 Municipal Terminal.**

Any property owned or operated by the Port of Portland for the provision of port services.

**16.90.210 Official.**

By authority of or recognized by law or code.

**16.90.215 Official Vehicle.**

Any government vehicle so identified by public registration plates.

**16.90.220 Official/Reserved Zone.**

(Amended by Ordinance No. 179141, effective March 23, 2005.) Any space adjacent to the curb or edge of the roadway, or on City of Portland owned or operated property, which is exclusively reserved for those vehicles which have been assigned the use of such space through official permits or other means of designation.

**16.90.225 Operator.**

Any person who is in actual physical control of a vehicle.

**16.90.230 Parade.**

Any group of persons and/or vehicles moving on a street or streets of the City under permit as herein provided in accordance with a plan or common purpose for a celebration, display, exhibition, show, or advertisement, whether for public, semi-public, or private purposes, but does not include funeral processions or advertising vehicles operating under the provisions of Title 7.

**16.90.235 Park, Parking, or Parked.**

The stopping or standing of any vehicle upon any street or highway within the City, whether such vehicle is occupied or not. It does not mean stopping or halting temporarily for less than 30 seconds to load/unload passengers, or in obedience to traffic regulations, signs, signals, or officers.

**16.90.240 Parking Lane.**

The area between the curb and not more than 8 feet from the curb or curb line or as shown by official street markings. The parking lane is generally intended for vehicle parking. Parking regulations may apply to the parking lane area according to the provisions of Title 16 of the Portland City Code.

**16.90.245 Parking Meter.**

(Amended by Ordinance Nos. 176394 and 179141, effective March 23, 2005.) A device placed at or near the curb adjacent to the street area, or on City of Portland owned or operated property authorized by the City and designed to register the duration of the parking time and the limit thereof, upon payment by a U.S. coin or a payment card. Parking meter includes a pay station.

**16.90.247 Payment Card.**

(Added by Ordinance No. 176394, effective April 17, 2002.) A valid credit, debit or stored value card.

**16.90.249 Meter Area Space Reservation Device.**

(Added by Ordinance No. 176394; amended by Ordinance Nos. 179141 and 189651, effective September 6, 2019.) A marker that is placed near the curb of the parking space, which contains administrative information on permit holder and regulations.

**16.90.250 Pedestrian.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) A person afoot; a person operating a pushcart; a person riding on or pulling a coaster wagon, sled, scooter, tricycle, bicycle with wheels less than 14 inches in diameter, or a similar non-motorized vehicle; or on roller skates, skateboard, wheelchair, or a baby in a carriage.

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**16.90.255 Pedestrian Way.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) A facility intended for pedestrian movement.

**16.90.260 Permanently Exhibit.**

To display affixed to a vehicle so that the sign may not be removed from the vehicle without mechanical tools.

**16.90.265 Person.**

A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

**16.90.270 Planting Strip.**

The area between the curb or edge of the roadway and an improved sidewalk.

**16.90.275 Private Road.**

Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

**16.90.280 Public Right-of-Way.**

(Repealed by Ordinance No. 177028, effective December 14, 2002.)

**16.90.285 Rail Vehicles.**

Any steel-wheeled vehicle(s) propelled on fixed steel rails, including, but not limited to: trolleys; light rail vehicles; and diesel-powered trains.

**16.90.290 Recreational Vehicle.**

A vehicle which is designed for sport or recreational use, or which is designed for human occupancy on an intermittent basis. Recreational vehicle is divided into two categories as follows:

- A. Motor Home. A motor vehicle designed for human occupancy on an intermittent basis. A camper is considered a motor home when it is on the back of a pick-up or truck.
- B. Accessory Recreational Vehicle. A nonmotor vehicle designed for human occupancy on an intermittent basis such as vacation trailers and fifth-wheel trailers. A camper is considered an accessory recreational vehicle when it is not on the back of a pick-up or truck. Accessory recreational vehicle also includes vehicles designed for off-road use such as off-road vehicles, dune buggies, and recreational boats.

**16.90.295 Regulated Parking Zone.**

(Amended by Ordinance No. 179141, effective March 23, 2005.) A space adjacent to a curb or curb line, designated by official signs or markings, where special regulations for

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parking or stopping a vehicle apply in addition to the general parking regulations that apply to all parking areas in the public right-of-way, or on City of Portland owned or operated property.

**16.90.300 Repair (a vehicle).**

To perform work on the motor, mechanical, or body parts of a vehicle.

**16.90.302 Right-of-Way.**

(Added by Ordinance No. 177028, effective December 14, 2002.)

- A. The area between property lines of a street, easement, tract or other area dedicated to the movement of vehicles, pedestrians and/or goods.
- B. A public right-of-way is dedicated or deeded to the public for public use and under the control of a public agency.
- C. A private right-of-way is in private ownership, for use by the owner and those having express or implied permission from the owner, but not by others.

**16.90.305 Roadway.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) The portion of a street or highway improved for vehicle movement, including any parking lane. On an improved street, the area between the curbs or edge lines of a street.

**16.90.310 School Bus.**

A motor bus owned or operated by authority of any lawfully recognized school district.

**16.90.315 Service (a vehicle).**

To perform routine maintenance such as replacing fluids or charging batteries. It does not include repairs to motor or body parts.

**16.90.320 Short-Term Parking Meter.**

A parking meter with a designated time limit of 4 hours or less.

**16.90.325 Shoulder.**

The portion of a public street or highway without curbs, whether paved or unpaved, contiguous to the roadway that is primarily for use by pedestrians, for the accommodation of stopped vehicles, for emergency use and for lateral support of base and surface courses.

**16.90.330 Sidewalk.**

The portion of the street between the curb or lateral lines of the roadway and the adjacent property lines, intended for use by pedestrians. An improved sidewalk is a pedestrian walkway with permanent surfacing in the sidewalk area of a street or highway.

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**16.90.335 Skateboard.**

A board of any material, natural or synthetic, with wheels affixed to the underside, designed to be ridden by a person.

**16.90.340 Sled.**

Vehicles that do not move exclusively on revolving wheels in contact with the surface of the road or on fixed rails.

**16.90.345 Stop, Stopping, or Stopped.**

Any halting, even momentarily, of a vehicle, whether occupied or not, except to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

**16.90.350 Street or Highway.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) The entire width of a right-of-way when any portion thereof is intended for motor vehicle movement or motor vehicle access to abutting property.

**16.90.351 Storage Container.**

(Added by Ordinance No. 179141, effective March 23, 2005.) A Storage Container in which any material is temporarily stored or collected. For the purposes of Title 16, a storage container will be considered a vehicle in terms of parking provisions and restrictions.

**16.90.355 Taxicab.**

Any motor vehicle which carries passengers for hire where the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of an initial fee, distance traveled, waiting time, or any combination thereof, and which is duly licensed by the City of Portland as a taxicab.

**16.90.360 Tire.**

The band of material used on the circumference of a wheel, on the outer face of a track or on a runner of a sled, which forms the tread that comes in contact with the surface of the road, or, if no band is used, then it means the tread or runner of a sled.

**16.90.365 Traffic.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) Pedestrians, ridden or herded animals, and vehicles, either singly or together, while using any street or highway for purposes of movement or parking.

**16.90.370 Traffic Congestion Thoroughfare.**

Any portion of a street or highway within the City affected by traffic congestion caused in whole or in part by the repeated driving of the same motor vehicles along or across that portion of the thoroughfare.



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**16.90.375 Traffic Control Device.**

- A. All signs, signals, markings, and devices consistent with this Title placed or operated by direction of the City Traffic Engineer for the purpose of guiding, directing, warning, or regulating traffic or parking.
- B. Any device that remotely controls by electrical, electronic, sound, or light signal the operation of any device identified in subsection (A) of this definition.

**16.90.380 Traffic Control Signal.**

Any device, whether manually, electrically, or mechanically operated, by which traffic is directed. An electric traffic control signal is considered inoperative when none of the signal control indications are illuminated.

**16.90.385 Traffic Hazard.**

(Amended by Ordinance No. 179141, effective March 23, 2005.) Any object, including vehicles, that impede the safe movement of vehicles in the public right-of-way or, on City of Portland owned or operated property.

**16.90.390 Traffic Lane.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) An area of a street or highway, designated by official signs or markings, as dedicated to the movement of one vehicle at a time.

**16.90.392 Transit Mall and Auxiliary Vehicular Lanes.**

(Added by Ordinance No. 182921, effective June 17, 2009.) The Transit Mall and Auxiliary Vehicular Lanes shall be designated in Section 16.50.110. An emergency is defined in Subsection 17.23.020 E.

**16.90.395 Tri-Met Bus.**

A motor bus owned or operated by the Tri-Metropolitan Transit District of Oregon.

**16.90.400 Trolley or Streetcar.**

(Amended by Ordinance No. 175564, effective May 9, 2001.) An electric or diesel powered, steel wheeled rail vehicle, operating on steel rails, used to transport passengers.

**16.90.405 Truck.**

(Amended by Ordinance No. 179141, effective March 23, 2005.) Every motor vehicle designed, used or maintained primarily for the transportation of property, goods or providing a service, tow truck with passenger plates, step vans, vehicle length or width or height greater than original manufacturer's vehicle dimensions, and meeting the description as defined by DMV registration as a truck, van or pickup.

**16.90.410 Truck Trailer.**

A vehicle which is not a recreational vehicle or utility trailer, is more than 16 feet in length, and is designed to be pulled by a motor vehicle.

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**16.90.415 Uncontrolled Intersection.**

Any intersection with no official traffic control device to designate vehicular right-of-way.

**16.90.420 Utility Trailer.**

A vehicle which is used to carry property, refuse, or special equipment, is 16 feet or less in length and is designed to be pulled by a motor vehicle. Boat trailers are included as utility trailers no matter what their length.

**16.90.421 Valid Receipt.**

(Added by Ordinance No. 179141, effective March 23, 2005.) A parking meter receipt dispensed from a City of Portland Parking Meter device indicating the valid date, time purchased, expiration time, watermark, or any other identifications showing validity of receipt. The receipt issued is valid only in the designated meter district where purchased.

**16.90.425 Vehicle.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) Every device in, upon, or by which any person or property is or may be transported or drawn upon any street or highway. Bicycle is more specifically defined in Section 16.90.025.

**16.90.430 Vehicle Alarm System.**

Any device, equipment, assembly, or system designed, arranged, or intended to sound an alarm horn, siren, klaxon, or other sound emitting device to signal an entry or attempted entry into, or tampering with, a vehicle.

**16.90.435 Vendor.**

Any person who conducts business in the public right-of-way or any other public property.

**16.90.440 Way.**

(Added by Ordinance No. 177028, effective December 14, 2002.) A facility for the movement of pedestrians, vehicles or goods, the specific user or users being determined by modifying words, such as road, bicycle, pedestrian, etc. Path and lane are synonyms for way, and likewise may be given a more specific meaning through use of a specified user or specific definition. See: Roadway, Pedestrian Way, Traffic Lane, Bicycle Path, et. al.

**16.90.445 Wheelchair User Disabled Permit/Placard.**

(Added by Ordinance No. 186575, effective July 1, 2014.) Any official State-issued disabled person registration plate, placard, permit or decal specifically for the use of a wheelchair or similar low-powered, motorized or mechanically propelled vehicle designed specifically for use by a person with a physical disability.

- C. The person or owner in control of any vessel berthed pursuant to this Section shall be liable for all charges and expenses including water charges by the Portland Water Bureau and other special costs incurred or provided in connection with berthing, shall be liable for any other expenses connected with the ship during the period of being berthed at the seawall, and also shall be liable for any damages resulting from the berthing or continuance of mooring of the vessel.

**19.16.055 Permits for Construction Work.**

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

- A. No person shall construct or repair or wreck any old work or drive or remove any piling within the harbor zone within the City of Portland or remove any earth or other material from the river banks or bed shoreward of or adjacent to the harbor line without first securing a permit from the Bureau of Development Services. After the permit has been issued and before such work has been started, the permit holder must notify the Harbor Master. It shall be the duty of the Harbor Master to stop any such work until a permit shall be secured, if so requested by the Director of the Bureau of Development Services.
- B. Nothing in the above Section shall relieve any person, company, or corporation from securing such other permits as may be required by any other agency such as, U.S. Army Corps of Engineers or the Port of Portland, State Marine Board, and Division of State Lands.

**19.16.060 Municipal Boat Landings.**

(Amended by Ordinance Nos. 169986, 188312, 190448 and 191018, effective November 4, 2022.)

- A. As used in this Section, the following words and terms have the meanings indicated unless the context clearly requires otherwise:
  - 1. **“PP&R”** shall mean the City of Portland, Bureau of Parks and Recreation. Where appropriate, the term “PP&R” also refers to the staff and employees of Portland Parks and Recreation.
  - 2. **“Facility”** shall mean PP&R floats, piers, mooring buoys, and boat landings.
  - 3. **“Commercial vessel”** shall mean a vessel which is used, rigged, or licensed for any commercial use or purpose, and shall include watercraft operated within the terms of a concession lease or agreement with PP&R.
  - 4. **“Length”** shall mean the overall length of a watercraft.
  - 5. **“Night”** shall mean any period of time between 3 PM and 9 AM.

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6. **“Docking Season”** shall mean the period of time between May 1 and September 30.
  7. **“Director”** refers to the Director of PP&R also known as the Superintendent of Parks.
- B.** The operator of recreational watercraft may use a municipal boat landing for recreational purposes only. It is unlawful to use a municipal boat landing for any purpose other than recreation without prior written permission of the Director of Parks.
  - C.** No person shall moor or berth a watercraft of any type in a PP&R owned or operated park or marine area except in designated marine park areas and at designated facilities.
  - D.** It is unlawful to moor a watercraft at a municipal boat landing for a period exceeding 24 hours or while the parks is closed, without prior written permission of the Director. The Harbor Master may permit a craft to be moored at a municipal boat landing for more than 24 hours only when the craft is inoperable and reasonable additional time is needed to repair it.
  - E.** Use of any PP&R marine facility shall be on a first come, first served basis unless otherwise permitted by PP&R. Reserving or retaining space to moor or berth a watercraft at any facility, by means of a dinghy or any method other than occupying the space by the watercraft to be moored or obtaining a permit through the PP&R Reservation Center, shall not be permitted.
  - F.** Open flames or live coals, or devices containing or using open flames, live coals, or combustible materials, including but not limited to barbecues, hibachis, stoves and heaters, shall not be permitted on PP&R marine facilities.
  - G.** No swimming, diving, or sunbathing is permitted on or within 50 feet of PP&R marine facilities and municipal boat landings.
    1. Exceptions
      - a. The Kevin Duckworth Dock Moorage
  - H.** The mooring of any craft in violation of this section may result in eviction from moorage, in addition to any other penalty prescribed by law.
  - I.** The Director is authorized to issue any rules and establish any fees with the Director deems necessary to operate and maintain all municipal Boat Landings and Marine Facilities.

- J.** Enforcement of the provisions in this Section shall be conducted by either the Director of Parks, the Harbor Master, the Chief of Police, the Multnomah County Sheriff, or their appointed designees. Subject to the provisions of ORS 830.908 to 830.948, any person authorized to enforce the provisions of this Section may seize any abandoned or derelict vessel in any Park or at any municipal dock and order the vessel be towed, stored and disposed of at the vessel owner's expense. Any person whose vessel has been posted with a notice of potential seizure, or whose vessel has been seized, may request a hearing before the Code Hearings Officer, subject to the rules and conditions for such hearings provided under ORS 830.908 to 830.940.
- K.** Use of docks governed by this Section is also subject to all applicable provisions of law, including, without limitation, the provisions of Chapters 20.08, Parks & Recreation - Permits and 20.12 Parks & Recreation - Prohibited Conduct, of this Code.
- L.** The City of Portland, its officers, and employees are not liable for any personal injury or property damage resulting from maintenance or use of a municipal boat landing.

**19.16.070 Vessels Are Not To Be Blocked.**

No master, owner or person in charge of any vessels, or watercraft shall block or hinder in any way the entrance or exit to any Fire Boat station on either the land or water side.

**19.16.075 Rafts Not to Block Slips or Channels.**

Rafts or barges must not be more than one deep when moored alongside of any vessel while at any berth. No rafts, barges, or other floating objects shall be moored in such a way that the navigation of any vessel or watercraft shall be endangered or hindered. All barges, rafts, or other floating objects while so moored shall have a white light displayed on the offshore side.

**19.16.080 River Obstructions.**

- A.** By certified mail, return receipt requested, the Harbor Master shall notify the owner, agent, or person in charge of any wreck, uncontrolled vessel, obstructing material or structure that is in violation of this chapter. In the Harbor Master's discretion, this notice may be posted on the wreck, vessel, material or structure.
- B.** The notice shall state the time within which the violation is to cease.
- C.** If the violation is not terminated within the time specified, the Harbor Master may remove the wreck, vessel, obstruction or material together with its tackle and cargo.

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- D. After removal, the Harbor Master shall notify the owner, agent, consignee or person in charge of the wreck, vessel or material of the cost of removing it and specify a date on which the cost shall be paid to the City.
- E. If the cost of removal is not paid within the time specified, the wreck, vessel or material shall be sold and the proceeds disposed of in accordance with City Code Section 5.36.015.

**19.16.085 Removal of Refuse.**

- A. No refuse shall remain on the deck of a vessel overnight or after the cargo has been worked. All refuse must be removed daily onto the dock or a barge. Under no circumstances shall combustible materials be allowed to accumulate at any loading terminal, dock or yard.
- B. All barges or lighters must be with sideboards, bins and covers to prevent the escape of noxious odors.

**19.16.090 Buoys Required on Wrecks.**

- A. If any vessel, watercraft or barge is wrecked or sinks or loses any part of its cargo in the waters of the port, the owner, agent or person in charge of the vessel, watercraft or barge shall immediately notify the Harbor Master of the nature of the obstruction, the location and the cause of the obstruction.
- B. The owner, agent or person in charge of the vessel, watercraft or barge shall immediately place a marker or buoy on the obstruction. The marker or buoy shall display two red flags by day and two red lights by night. The flags shall be one above the other, not less than three feet apart. Each flag shall be not less than 18” by 18” in size.
- C. If an obstruction constitutes a navigational hazard in any way, the owner, agent or person in charge shall notify the United States Coast Guard Captain of the Port and the owner, agent or person in charge shall mark the obstruction as ordered by the Captain of the Port.

**19.16.095 Menace to Navigation.**

- A. All refuse and debris in the waters of the port are declared to be public nuisances and menaces to navigation.
- B. It is unlawful for any person to throw or place or permit to be thrown or placed any such refuse or debris in the waters of the port or at a location where the refuse or debris may get into the waters of the port by high water or other means.

- C. Any such menace to navigation is subject to seizure by the Harbor Master without warrant or notice and is subject to summary destruction and abatement if this can be done without a breach of the peace or doing any unnecessary injury to other property.

**19.16.100 Hot Work on Vessels.**

(Amended by Ordinance Nos. 180917 and 190448, effective July 16, 2021.) A Hot Work permit shall be obtained before beginning any welding or burning operations in or on any vessel, in or abutting the Portland harbor.

- A. Scope: This regulation applies to all operations involving the use of oxygen/fuel gas mixtures, electric arc welding, or other spark or fire producing operations on marine vessels regardless of the size of the vessel and regardless of whether or not the vessel is at anchor, moored, in drydock, or ashore.
- B. General Definition for this Section: For the purpose of this regulation the following words have the meanings set forth below:
1. **Adjacent Spaces** - Those spaces in all directions from the subject space, including all points of contact, corners, diagonals, decks, tank tops, and bulkheads.
  2. **Bureau** - The City's Portland Fire & Rescue.
  3. **Competent Person** - The holder of a valid Certificate issued by the National Fire Protection Association, or other recognized source attesting that the holder has successfully completed a course of training as a Competent Person and has been officially registered with the U.S. Department of Labor (OSHA) as a designated Competent Person by their respective employer.
  4. **Confined Space** - A compartment of small size and limited access such as a double bottom tank, cofferdam, or other such similar type space which by its small size and confined nature can readily create or aggravate a hazardous exposure.
  5. **Fire Watch** - A person designated by the supervisor of the welding operation to watch for signs of fire. Such persons shall be familiar with Fire Department Permit Conditions, the area where the hot work is to take place, and procedures for sounding an alarm in the event of fire. In addition, this person shall be trained in the proper use of the extinguishing equipment provided and instructed in the specific hazards anticipated.
  6. **Designated Piers** - Those piers or berths designated by the Portland Harbor Master and by virtue of their construction, location, fire protection and fire

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hydrant availability, are suitable to permit certain repairs to vessels alongside.

7. **Enclosed Space** - Any space other than a confined space, which is enclosed by bulkheads and overhead. It includes cargo holds, tanks, quarters, and machinery and boiler spaces.
8. **Gangway** - A ramp-like or stair-like means of access provided to enable personnel to board or leave a vessel including accommodation ladders, gangplanks, and brows. A gangway shall have a walking surface not less than 20 inches wide, be of adequate strength, maintained in good repair, and safely secured. Each side of such gangway, and turntable if used, shall have a railing with a minimum height of 33 inches, with a mid rail. Rails, if constructed with rope or chain, shall be kept taut at all times.
9. **Hazardous Materials** - Any material which by reason of being explosive, flammable, poisonous, corrosive, oxidizing, irritant or otherwise harmful is like to cause injury.
10. **Hot Work** - Per NFPA 306, paragraph 1-05; any construction alteration, repair, or shipbreaking operation involving riveting operation welding, burning, or similar fire-producing operations. Grinding, drilling, abrasive blasting, or similar spark producing operations shall be considered hot work unless deemed otherwise by a Certified Marine Chemist.
11. **Marine Chemist** - The holder of a valid Certificate issued by the National Fire Protection Association in accordance with the "Rules for the Certification of Marine Chemist."
12. **Powder Actuated Fastening Tool** - A tool or machine which drives a stud, pin, bolt or any type of fastener by means of an explosive charge.
13. **Ship Repair** - The repair of any vessel including, but not limited to, alterations, modifications, conversions, installations, cleaning, painting, and maintenance work, and for the purposes of this code includes shipbuilding and shipbreaking.
14. **Shipyards** - An operating facility, engaged in ship repair, doing business in the City of Portland or adjacent Columbia/Willamette River Port facilities, meeting the requirements of the Building and Fire Codes.
15. **Vessel** - Every description of watercraft or other artificial contrivance used as a means of transportation on water, including special purpose floating structures not primarily designed for or used as a means of transportation on water.



- C.** Hot Work Permits: Hot Works Permits for Hot Work on Marine Vessels shall be divided into three categories.
- 1.** Level I - Those permits for hot work operations which are minor in nature. (See below for further definitions.)
  - 2.** Level II - Those permits for hot work operations which are moderate in nature. (See below for further definition.)
  - 3.** Level III - Those permits which involve major hot work operations. (See below for further definition.)
- D.** Level I Hot Work:
- 1.** Definition: Level I hot work is work which involves repairs or modifications which by nature do not involve any cutting or welding on or near hazardous areas of the vessels.
  - 2.** Level I hot work must:
    - a.** Not involve work on hazardous areas or compartments of the vessel. Such hazardous areas include, but are not limited to: Fuel systems (including tanks and piping and compartments adjacent to such tanks and piping). Compartments which are insulated with combustible or flammable insulation, including insulation which has a fire resistive barrier installed over the surface: Engine rooms, fire rooms and boiler rooms, auxiliary machinery rooms. Cargo or storage areas which contain or have contained hazardous materials (including flammable liquids and gases or combustible liquids). Work on surfaces directly adjacent to those compartments listed above (i.e.: Those opposite sides of an insulated space which might expose the insulation to heat).
  - 3.** Violation of Condition:
    - a.** No welding or cutting shall be done on a dock or ship within the City's harbor without first obtaining a hot work permit authorized by Portland Fire & Rescue.
    - b.** If welding or cutting is done on a dock or ship within the City's harbor without first obtaining the permit or permits required by this Chapter, the welding or cutting shall cease immediately and not begin again until the Fire Marshal or Harbor Master has inspected the worksite, the inspection fee has been paid and the Fire Marshal or Harbor Master has issued a permit for welding or cutting. The

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person(s) must also obtain any Coast Guard or other required permits for the hot work, prior to the commencement of such work.

4. Examples of Level I hot work include work on:
  - a. Standing rigging
  - b. Replacement of cleats and pad eyes
  - c. Work involving deck machinery
  - d. Similar repairs or modifications
5. Requirements:
  - a. Permits Required:
    - (1) A U.S. Coast Guard Hot Work Permit.
    - (2) A “Hot Work Permit for Vessels,” authorized by Portland Fire & Rescue shall be obtained prior to the commencement of any hot work operations aboard any marine vessel.
  - b. Violation of Conditions:
    - (1) Violation of any of the following permit conditions shall be cause for immediate revocation of the “Hot Work Permit For Vessels.” Permits which are revoked require all discrepancies corrected immediately and may require payment of a fee prior to issuance of a new permit. In the event that a fire occurs as a result of violation of these permit conditions, the Chief of Portland Fire & Rescue may prepare a statement setting forth the costs of extinguishing the fire and the permit holder shall pay such costs.
  - c. Authorized Locations: Level I hot work may be performed at the vessel’s normal berth. Exception: Level I hot work shall not be performed at fuel terminals, passenger terminals, grain terminals, or terminals or piers at which the use is primarily residential or recreational in nature, unless authorized by the U.S. Coast Guard, Harbor Master, and a NFPA certified Marine Chemist.
  - d. Vessel’s Fire Protection Systems: During hot work operations all of the vessel’s fire protection systems shall remain in service.

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- e. Gangways Required: At least one gangway shall be provided for access to the vessel.
- f. Prohibited Activity: The following activities are prohibited during hot work operations, unless specifically approved by a Marine Chemist.
  - (1) All hot work operations shall be discontinued during discharge, loading, or transfer of fuel oils or other flammable or combustible substance.
  - (2) Spray painting or the application of other flammable compounds unless sufficient ventilation is provided to maintain the atmosphere at less than 10 percent of the lower explosive limit for the particular material being applied as determined by a Marine Chemist. Monitoring of such areas shall be carried out by a Competent Person.
- g. Inspection Required:
  - (1) Prior to the commencement of hot work operations, an inspection shall be made of the area in which the work is to occur to assure that:
    - (a) The work to be performed does not involve an area of the vessel prohibited for Level I hot work.
    - (b) Prohibited activity is not taking place elsewhere on the vessel.
    - (c) The area is safe for the hot work to take place. Such inspection shall be made by the Competent Person and the person in charge of the repairs or modifications. Such inspections shall include the opposite sides of bulkheads or decks on which welding or cutting operations are to be performed.
- h. Fire Watches:
  - (1) Whenever hot work operations are taking place, a responsible individual shall be appointed as fire watch and shall be on duty continuously during such operations.
  - (2) Such persons shall have no other duties other than to watch for fire. Fire watches shall be equipped with, or have immediate access to emergency fire protection equipment

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(charged fire extinguishers and/or fire hoses). Fire watches shall remain on duty for not less than 30 minutes after hot work operations are completed.

- (3) Persons performing hot work may not serve as their own fire watch.
- (4) Persons appointed as fire watch may be a member of the vessel's crew or other person designated by the individual in charge of the work.
- (5) As determined by a responsible, trained supervisor, the number and location of fire watch personnel shall be based on all existing conditions and potential fire hazards.
- (6) Fire watches are to be readily identifiable.
- (7) Fire Watches shall be equipped with a mechanism to send a fire alarm or a device to cause an alarm to be sounded, even if the Fire Watch is in a remote or confined area or tank.

**i. Fire Extinguishing Devices Required:**

- (1) Portable fire extinguisher of sufficient size and number, as identified on Hot Work Permit, shall be kept in readiness at the location where the hot work is being done. Extinguishers may be 4A, 60BC, Dry Chemical; 1A 10/12 BC CO<sub>2</sub> or, 2A pressurized water, depending on the work and surroundings involved. Extinguishers that are part of the vessel's established fire protection outfitting may not be used for this purpose.
- (2) A fire hose of not less than 1-1/2 inch diameter, with nozzle attached, shall be laid out and suitably charged in the vicinity of hot work operations. Such hose shall be of sufficient length to reach the compartment or space being worked on or protected.

**j. Ventilation: Forced draft ventilation of adequate capacity to remove hot work vapors and any accumulation of flammable vapor shall be installed prior to performing any work below deck or inside a confined or enclosed space.**

**k. Other precautions Against Fire:**

- (1)** Flammable or combustible liquids may not be stored within 50 feet of hot work operations.
- (2)** Combustible materials shall not be located within 25 feet of hot work operations. (Including the opposite side of surfaces on which welding or cutting is being performed.)
- (3)** Hot work shall not be done in or near compartments or spaces where flammable liquids or vapors, lints, or loose combustible stocks are so located or arranged that sparks or hot metal from the welding or cutting operation may cause ignition or explosion of such materials.

**E. Level II Hot Work**

- 1.** Definition: Level II hot work includes that work which is moderate in nature or any hot work on or near areas of the vessel which are hazardous in nature.
- 2.** Such hazardous areas include:
  - a.** Fuel systems (including tanks and piping and compartments adjacent to such tanks and piping.
  - b.** Compartments which are insulated with combustible or flammable insulation.
  - c.** Engine rooms, fire rooms, boiler rooms, and auxiliary machinery rooms.
  - d.** Cargo or storage areas which contain or have contained hazardous materials (including flammable liquids and gases or combustible liquids).
  - e.** Work on surfaces directly adjacent to those compartments listed above (i.e., the opposite side of an insulated space, which might expose the insulation to heat). Level II hot work must be completed within 30 calendar days.
- 3.** Examples of Level II hot work include:
  - a.** Removal or replacement of major components of the vessel's propulsion system.
  - b.** Removal or replacement of major components or sections of any shipboard piping systems.

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- c. Replacement of deck houses or other major structural components.
  - d. Replacement of hull or deck plating.
  - e. Work is less than 30 days in duration.
4. Requirements:
- a. Permits Required:
    - (1) A U.S. Coast Guard Hot Work Permit.
    - (2) A “Hot Work Permit for Vessels,” authorized by the Harbor Master shall be obtained prior to the commencement of any hot work operations aboard any marine vessel.
  - b. Violation of Conditions:
    - (1) Violation of any of the following permit conditions shall be cause for immediate revocation of the “Hot Work Permit For Vessels.” Permits which are revoked require all discrepancies corrected immediately and may require payment of a fee prior to issuance of a new permit.
    - (2) In the event that a fire occurs as result of a violation of these permit conditions, the Chief of Portland Fire & Rescue may prepare a statement setting forth the costs of extinguishing the fire and the permit holder shall pay such costs.
  - c. Authorized Locations:
    - (1) Level II hot work may only be performed at designated Port facility piers or at shipyards.
    - (2) Crane service must be immediately available whenever work is being performed. Such cranes must be capable of lifting not less than 10,000 pounds with a boom of sufficient length to reach the middle of the ship on the largest vessel at the pier.
  - d. Vessel’s Fire Protection System: During hot work operations all of the vessel’s fire protection systems shall remain in service.
  - e. Gangways Required: Two gangways shall be provided for access to the vessel, unless physical limitations dictate otherwise.

- f.** Prohibited Activity: Unless approved by a Certified Marine Chemist, the following activities are prohibited during hot work operations:
- (1)** All hot work operations shall be discontinued during discharge, loading or transfer of fuel oils or other flammable or combustible substances.
  - (2)** Spray painting or the application of other flammable compounds unless sufficient ventilation is provided to maintain the atmosphere of less than 10 percent of the lower explosive limit for the particular material being applied as determined by a Marine Chemist. Monitoring of such areas shall be carried out by a Competent Person.
- g.** Shipyard Personnel Required: Depending on the exact nature of the work, Level II hot work must be reviewed by a NFPA Certified Marine Chemist or a full-time safety person, or both prior to commencement. Full-time safety persons shall meet the requirements for Competent Persons.
- h.** Marine Chemist Certificate Required:
- (1)** No person shall engage in hot work or the use of powder actuated fastening tools in or on the spaces listed below until a certificate setting forth that such work can be done safely is issued. Such certificates shall be valid only if they are issued by a Marine Chemist certified by the National Fire Protection Association (NFPA).
  - (2)** A Marine Chemist Certificate shall be required prior to Hot Work operations on any vessel:
    - (a)** Within or on the boundaries of cargo tanks which have been used to carry combustible or flammable liquids and/or gases, or within spaces adjacent to such cargo tanks.
    - (b)** Within or on the boundaries of fuel tanks.
    - (c)** On pipe lines, heating coils, pumps, fittings or other appurtenances connected to cargo tanks, fuel tanks or fuel systems.

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- (d)** Within the boundaries of engine rooms, fire rooms and boiler rooms.
- (e)** Within the boundary of any machinery compartment or space in which the machinery uses a flammable or combustible liquid or flammable gas in its operation.
- (f)** Marine Chemist Certificate shall be issued in strict accordance with the requirements of NFPA 306 Standard for the “Control of Gas Hazards on Vessels.”

**i.** Inspection Required:

- (1)** Prior to the commencement of hot work operations, an inspection shall be made of the area in which the work is to occur to assure that:
  - (a)** The work to be performed is not prohibited for Level II hot work.
  - (b)** Prohibited activity is not taking place elsewhere on the vessel, unless approved by a Certified Marine Chemist. (See section entitled “Prohibited Activity” above.)
  - (c)** The area is safe for the hot work to take place and Hot Work Permit Conditions are being complied with:
    - (i)** Regular inspections shall be made by a Competent Person during the entire repair period to note and eliminate fire hazards and to implement work procedures to keep such hazards to a minimum.
    - (ii)** The types and amounts of fuel oils and other flammable or combustible liquid in all cargo, bunker, deep, settler and double bottom tanks shall be determined. Such determination shall include associated piping systems. Such information shall be readily available to Portland Fire & Rescue in the event of a fire or inspection by the Harbor Master.



- (iii) Such inspection shall be made by the Competent Person or Certified Marine Chemist. Such inspection shall include the opposite sides of bulkheads or decks on which welding or cutting operations are to be performed.

**j.** Fire Watches: Whenever hot work operations are taking place, a responsible individual shall be appointed as fire watch and shall be on duty continuously during hot work operations.

- (1) Such persons shall have no other duties other than to watch for fire.
- (2) Fire watches shall be equipped with and have immediate access to emergency fire protection equipment (charged fire extinguishers and fire hoses).
- (3) Fire watches shall remain on duty for not less than 30 minutes after hot work operations are completed or breaks taken.
- (4) Persons engaged in Hot Work operations may not serve as their own fire watch.
- (5) Persons appointed as fire watch may be a member of the vessel's crew or other person designated by the individual in charge of the work.
- (6) As determined by a responsible, trained supervisor, the number and location of fire watch personnel shall be based on all existing conditions and potential fire hazards.
- (7) Fire watches are to be readily identifiable.
- (8) If during any Hot Work operation there will be a transmission of heat through a bulkhead or above or below a deck where such work is being done, a fire watch shall be maintained on all sides of the bulkhead or deck.
- (9) Fire Watches shall be equipped with a mechanism to send a fire alarm or a device to cause an alarm to be sounded, even if the Fire Watch is in a remote or confined area or tank.

**k.** Fire Extinguishing Devices Required:

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- (1) Portable fire extinguishers of sufficient size and number as identified on the Hot Works Permit shall be kept in readiness at the location where hot work is being done. Extinguishers may be 4A, 60BC Dry Chemical; 1A 10/12 BC CO<sub>2</sub>, or 2A pressurized water, depending on the work and surroundings involved. Extinguishers that are part of the vessel's established fire protection outfitting are not to be used for this purpose.
- (2) Fire hose(s) of not less than 1-1/2 inch in diameter, with nozzle attached, shall be stretched out and suitably charged prior to the commencement of Hot Work operations. One such hose shall be stretched to the area where the Hot Work is to occur. Hose(s) shall be tested prior to commencing any hot work. The hose(s) will remain ready for instant use for at least 30 minutes (1/2 hour) after any hot work has been completed or breaks taken.
- (3) In areas of physical space limitations a special exemption relative to hose size(s) may be granted by the Company Safety Manager, or the Harbor Master or their designated representative.
- (4) Designated emergency "Red Head" fire boxes shall be supplied and available. Each fire box shall be equipped with two (2) 100 foot lengths of 1-1/2 inch fire hose with adjustable fog/shut-off nozzles attached. Designated emergency (Red Head) fire boxes shall be suitably charged and positioned at intervals to maximize adequate fire protection including use of the vessel's charged fire main system. Adequate supplies of spare hose (and nozzles), sufficient to reach any compartment in which Hot Work operations are taking place and each compartment adjacent to the compartment being worked on shall be readily available immediately adjacent to the Red Head boxes. Red Head fire boxes shall be used for emergency use only.
- (5) In the event of severe freezing weather, or in electronic spaces or compartments containing materials that are easily water damaged, fire watches shall be equipped with CO<sub>2</sub>, other acceptable portable extinguisher(s). Fire hose(s) strung out shall remain dry, but in a state of readiness in the event portable extinguishers are not effective.