

Title 17 Public Improvements

Chapter 17.04 Definitions

~~(Chapter replaced by Ordinance 185397, effective July 6, 2012.)~~

17.04.010 Definitions.

~~(Amended by Ordinances 186902, 189629, 189837, 190307, and 190479, effective June 30, 2021.)~~

The following definitions apply to the entirety of Title 17. Additional section-specific definitions may be found in other sections.

A. “Alley” has the definition provided by Section 33.910.030.

B. “Best Management Practices (BMPs)” means operational, maintenance and other practices that prevent or reduce environmental, health or safety impacts. BMPs include structural controls, modification of facility processes, and operating and housekeeping pollution control practices.

C. “Brownfield” means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

D. “Building Permit” means a permit required under Chapter 24 or state administrative rule to erect, construct, enlarge, alter, repair, move, improve, remove, convert, change occupancy group of, or demolish any building or structure, or to do any clearing or grading, or cause any of the same to be done.

E. “Chief Engineer” means the engineer with the authority, subject to the approval of the City Administrator, to act as the official agent of the bureau or department responsible for a local or public improvement or the lawfully designated subordinate of the City Engineer. For the Bureau of Transportation this ~~shall be~~ the City Engineer, for the Bureau of Environmental Services this ~~shall be~~ the Chief Engineer of the Bureau of Environmental Services, and for the Portland Water Bureau this ~~shall be~~ the Chief Engineer of the Portland Water Bureau.

F. “City Engineer” means the duly appointed City Engineer, or appropriate designees.

G. “Department of Environmental Quality (DEQ)” means the Oregon Department of Environmental Quality.

H. “Development” means all improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and

areas devoted to exterior display, storage or activities ~~which~~that create the need for additional usage or construction of public infrastructure.

I. “Director of the Bureau of Environmental Services” means the duly appointed Director of the Bureau of Environmental Services, or the lawfully designated subordinate of the Director of Environmental Services acting under the orders of the Director of the Bureau of Environmental Services.

J. “Director of the Bureau of Transportation” means the duly appointed Director of the Bureau of Transportation, or the lawfully designated subordinate of the Director of the Bureau of Transportation acting under the orders of the Director of the Bureau of Transportation.

K. “Dwelling Unit” means a building or a portion of a building consisting of one or more rooms ~~that~~which may include sleeping, cooking, and plumbing facilities and are arranged and designed as living quarters for one family or household.

L. “Engineer’s Estimate” means the calculation of anticipated total dollar cost of the construction of a public or local improvement project as determined by the ~~City Administrator~~Chief Engineer. The estimate is used in determining the face value of performance bonds where applicable.

M. “EPA” means the United States Environmental Protection Agency.

N. “Frontage” means the length of public right-of-way adjacent to a property, measured in feet.

O. “Lateral” means the underground pipe that connects the plumbing system of a building or buildings to a public or private sewer.

P. “Local Improvement” means an improvement of, on, over or under property that is or will be owned or controlled by the public, by construction, reconstruction, remodeling, repair or replacement, when the improvement is determined by the Council to confer a special benefit on certain properties, and such properties are to be charged through assessment all or a portion of the improvement cost.

Q. “Local street” means any street classified as a Local Traffic Service Street in the City’s adopted Transportation System Plan.

R. “Oregon Administrative Rules (OAR)” means the State of Oregon Administrative Rules as amended.

S. “Owner” means an owner-of-record of real property according to the appropriate county’s assessment and taxation records.

T. “Person” means any natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, and/or the manager, lessee, agent, servant, officer, or employee of any of them.

U. “Projected Future Curbline” means:

1. The location of the curbline as designated on City plans for street construction;
2. To the edge of existing pavement; or
3. To the appropriate width of the designated street classification as described in TRN-1.09 Design Standards for Public Streets.

V. “Public Improvement” means an improvement of, on, over or under property owned or controlled by the City, or property to be controlled by the City upon plat and easement recording for approved land divisions, by construction, reconstruction, remodeling, repair or replacement, when no property is intended to be charged through assessment any portion of the improvement cost.

W. “Public Sewer” means the entire City sewage, sludge, and stormwater collection, conveyance, treatment, pollution reduction, reuse, and disposal systems, including all pipes, ditches, sumps, manholes, and other system components that:

1. Have been designed for the collection and transport of stormwater, wastewater, or sanitary sewage received from street inlets, sewer service laterals and common private sewer systems; and
2. Were
 - a. Constructed by the ~~City’s~~ Bureau of Environmental Services; or
 - b. Accepted by the ~~City’s~~ Bureau of Environmental Services under Section 17.32.055.

X. “Public Utility” means a person currently possessing a franchise or privilege granted by the City ~~of Portland~~ to provide utility service, or is a City bureau charged with providing utility service, to the public to generate, transmit or provide any such service within ~~the City~~Portland, including but not limited to electricity, telecommunications, natural gas, sewer, water, stormwater, cable or pipeline services.

Y. “Public Works Project” means any project performed or financed by a local, state, or federal government that results in the construction of a Local Improvement or a Public Improvement.

Z. “Responsible Engineer” as used in this title means the Engineer with the authority subject to the approval of the City Administrator, to act as the official agent of the bureau or department responsible for a local or public improvement or the lawfully designated subordinate of the Responsible Engineer. For the Portland Bureau of Transportation this ~~shall be~~is the City Engineer; for the Bureau of Environmental Services this ~~shall be~~is 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.

AA. “Responsible Official” means the Official with the authority, subject to the approval of the City Administrator, to act as the official agent of the bureau or department or the lawfully appointed subordinate of the Responsible Official. For the Bureau of Transportation, this ~~shall be~~ the Director of the Bureau of Transportation as defined in this Section. For the Bureau of Environmental Services, this ~~shall be~~ the Director of the Bureau of Environmental Services as defined in this Section. For the Portland Water Bureau, this ~~shall be~~ the Director of the Portland Water Bureau as defined in this Section.

BB. “Street” means any street as defined in the City Charter, including all area between property lines, and area dedicated to street use.

CC. “Tri-County Metropolitan Transportation District of Oregon (TriMet)” is a public agency established under ORS 267.010 to 267.390 that operates mass transit ~~that which~~ spans most of the Portland metropolitan area, and/or the manager, lessee, agent, servant, officer, or employee of the organization.

Chapter 17.06 Administration of Public Works Permitting

~~(Chapter added by Ordinance 183483, effective February 19, 2010.)~~

17.06.010 Purpose and Scope.

This Title establishes regulations affecting or relating to Public Works Permit Improvements.

17.06.015 Protection of the Public Interest.

~~(Added by Ordinance 185397, effective July 6, 2012.)~~

No provision of this Title ~~shall~~ may be construed to create a right in any individual to a permit ~~which that~~, in the opinion of the City, would be inconsistent with the public interest.

17.06.020 Definitions.

~~(Amended by Ordinance 191736, effective July 1, 2024.)~~

For the purposes of this Chapter, the following definition ~~shall~~ applies:

A. “Public Works Permit” is a permit issued in accordance with Section 17.24.030, Application for Permit, or issued in accordance with Chapter 17.32, Sewer Regulations.

17.06.030 ~~Organization and~~Administrative Rules.

~~(Amended by Ordinances 189651 and 191736, effective July 1, 2024.)~~

~~The City Administrator may adopt administrative rules as authorized by Charter. The Public Works Permit Manager shall establish rules and procedures for appeals. The rules may include, consistent with this Code, a description of agency decisions that are and are not subject to appeal under this Code section.~~

17.06.040 Appeals Board.

~~(Amended by Ordinances 185397, 189651 and 191736, effective July 1, 2024.)~~

A. Public Works Board of Appeals (PWBA).

1. The Board ~~shall~~ consists of three members: Chief Engineers from the Bureaus of Environmental Services and Water, and the City Engineer or their designees. Two members ~~shall~~ will constitute a quorum.
2. The Board annually ~~shall~~ elects a Chairperson from among the three members of the Board. Meetings of the Board ~~shall~~ will be held at the call of the Chairperson, who ~~shall~~ will call meetings at the Public Works Permit Manager's request.

B. Representation from the Bureaus of Fire, Parks and Recreation Forestry Division or Portland Permitting & Development may be called upon by the Public Works Permit Manager at any time to provide staff support related to appeals to be acted upon by the PWBA.

17.06.050 Appeals.

~~(Amended by Ordinances 184707, 189651 and 191736, effective July 1, 2024.)~~

A. Unless prohibited by Portland Citythis Code and rules adopted by the City Administrator~~Public Works Permit Manager~~, any person whose application for a Public Works Permit is denied or any person who is required pursuant to, or as a written condition of, the grant of a Public Works Permit to incur an expense for the alteration, repair, or construction of a facility in the public right of way, including but not limited to pavement, sidewalk areas, stormwater facilities or utilities may appeal to the Public Works Board of Appeals (PWBA) by serving written notice upon the Public Works Permit Manager. The following actions are not subject to appeal:

1. Approval or denial of requests for design exceptions;
2. Previously established City standards and specifications;
3. Decisions related to the assessment of system development charges;

4. Matters subject to the authority of any other City appeal body;
5. Matters ~~which that~~ may be appealed through City or state land use processes.

B. A permit decision, requirement or condition may only be appealed if it is in writing and only on the grounds that it is inconsistent with or contrary to City Code, rules, standards, policy, or is a misapplication or misinterpretation, thereof.

C. An appellant ~~shall must~~ serve written notice of appeal on the Public Works Permit Manager challenging an appealable permit decision, requirement, or condition. The notice of appeal ~~shall must~~ be in such form as specified by the Public Works Permit Manager, and ~~must shall~~ be accompanied by a fee, which ~~shall will~~ be set on an annual basis by City Ordinance, and served within the time for appeal specified in Subsection F. of this Section.

D. Content of the appeal. The appeal must be submitted on forms provided by the Public Works Permit Manager. All information requested on the form must be submitted. The appeal request must include:

1. The public works permit number appealed;
2. The appellant's name, address, signature, phone number;
3. The grounds for the appeal including, at a minimum, the specific City Code provision, rule, standard, or policy with which the decision, requirement, or condition is claimed to be in conflict and a detailed explanation of the alleged conflict;
4. The relief requested; and
5. The required fee.

E. The PWBA may approve, approve with conditions or deny the requested relief. Any such decision made must be consistent with applicable City Code, rules, standards and policies. If the PWBA determines that the requested relief cannot be granted without a change to City policy, the PWBA may recommend such a change in writing to the ~~Directors of the Bureaus of Transportation, Water, Environmental Services and Portland Permitting & Development~~ City Administrator and may incorporate the ~~City Administrator's~~ Directors' response into its final decision. The PWBA ~~shall will~~ transmit to the appellant and the relevant Bureaus a written decision on the appeal, including a statement of its basis.

F. Sequence of appeals. The purpose of the appeals procedures is to identify and resolve appealable issues as early as possible, and to ensure an appeal is fully resolved before an applicant moves to subsequent steps in the permit review process. The following sequencing requirements apply to appeals:

1. Appellant may file an appeal during any phase of the permit application and review process. However, an appeal must be submitted during the phase in which the decision is made. For example, a decision made during the 30 percent phase of plan review must be appealed prior to the start of the 60 percent phase.

2. The time required to file and process an appeal ~~shall~~will not increase the amount of time allowed by the City for an applicant to file and process a public works permit application. The right to appeal ~~shall~~will expire when the permit expires.

G. Decisions of the PWBA are final. They may be reviewed by the Circuit Court pursuant to ORS 34.010 to 34.102.

Chapter 17.08 Local Improvement District Procedure

~~(Chapter replaced by Ordinance 177124; Amended by Ordinance 190816, effective June 17, 2022.)~~

17.08.010 Definitions and Scopes of Duties.

~~(Amended by Ordinances 182389, 184957, 189413, 190132, 190307 and 190816, effective June 17, 2022.)~~

A. The “**Responsible Bureau**” for a local improvement is as follows:

1. The Portland Bureau of Transportation is the Responsible Bureau for street and other transportation improvements;

2. The Bureau of Environmental Services is the Responsible Bureau for sanitary sewer, stormwater management and other environmental improvements;

3. The Portland Water Bureau is the Responsible Bureau for water improvements; and

4. ~~City Council~~The City Administrator will designate the Responsible Bureau for a local improvement that is not addressed by this section.

B. “Local Improvement District Administrator” means the person designated by the ~~Director of the Portland Bureau of Transportation~~City Administrator to administer the City’s local improvement district program.

C. “Property” means includes land irrespective of whether such land is assessed for property taxes. Property for purposes of a future local improvement district assessment does not include equipment ~~which~~that may be assessed by other jurisdictions for property tax purposes. Property for purposes of a local improvement

district assessment includes all public real property held in fee simple title but excludes public rights-of-way under public jurisdiction.

D. The City Administrator~~Responsible Engineer as identified in Chapter 17.04~~ is responsible for:

1. Preparing a preliminary engineer's estimate and preparing an analysis of proposed significant and material changes to the scope or cost of improvements after formation of a local improvement district prior to preparing plans and specifications;
2. Preparing plans and specifications;
3. Entering into a contract for improvement construction and/or engineering;
4. Handling completion of construction and acceptance of work;
5. Preparing a final engineer's estimate; and
6. Any other work related to engineering or construction.

E. The Local Improvement District Administrator is responsible for:

1. Preparing a petition for a local improvement district and determining the validity of a petition for a local improvement district as appropriate;
2. Recommending an assessment methodology for a local improvement district to City Council;
3. Analyzing financial feasibility of a local improvement district prior to formation;
4. Preparing and filing a Resolution of Intent for formation of a local improvement district;
5. Publishing and posting notices for the Formation Hearing of a local improvement district;
6. Preparing and filing a Formation Ordinance for a local improvement district;
7. Responding to remonstrances against formation of a local improvement district;
8. Presenting significant and material changes to scope or cost of improvements to City Council after formation of a local improvement district;
9. Recommending abandonment of a local improvement district;
10. Determining the total cost of the local improvement;

11. Publishing and posting notice of final assessment for a local improvement district;
12. Preparing and filing the Final Assessment Ordinance for a local improvement district;
13. Responding to objections against final assessment of a local improvement district; and
14. Any other work related to processing or completing local improvement districts.

F. The revenue service and program of the City Administrator~~Bureau of Revenue and Financial Services~~ will be responsible for:

1. Mailing notices for the Formation Hearing of a local improvement district at the direction of the Local Improvement District Administrator;
2. Receiving written remonstrances against the formation of a local improvement district, and forwarding such remonstrances to the Local Improvement District Administrator for a response;
3. Maintaining records of preliminary estimates of assessments;
4. Mailing notices for the Final Assessment Hearing for a local improvement district at the direction of the Local Improvement District Administrator;
5. Receiving written objections to the final assessment for a local improvement district, and forwarding such objections to the Local Improvement District Administrator for a response;
6. Entering final assessments for a local improvement district into the docket of City Liens upon passage of a Final Assessment Ordinance for a local improvement district;
7. Mailing of notices of final assessment to property owners after passage of the Final Assessment Ordinance and entry into the docket of City Liens;
8. Determining the individual financial capacities of property owners, and offering installment payments, if requested; and
9. Obtaining interim financing to pay for local improvement costs prior to bonding.

17.08.020 City Council Control.

~~(Amended by Ordinance 190132, effective October 16, 2020.)~~

Whenever the City Council deems it expedient, it may order an improvement; when the City Council determines that such improvement will afford a special benefit to property within a particular local improvement district, the City Council will classify it as a local improvement, and provide for payment of all or a portion of the cost thereof by imposition and collection of local assessments on the property benefited.

17.08.030 Charter Provisions Applicable.

~~(Amended by Ordinances 184957 and 190132, effective October 16, 2020.)~~

Charter provisions applicable to local improvements will be followed by the City except where Charter provisions are contrary to state statute or the Oregon Constitution. In case of such conflict, legally applicable City Code will apply.

17.08.040 Initiation of Local Improvement District Formation Proceedings.

~~(Amended by Ordinances 190132 and 190816, effective June 17, 2022.)~~

A. City Council may, at its discretion, initiate a local improvement district formation proceeding by adopting a Resolution of Intent to undertake a capital construction project, or part thereof, based on one or more of the following criteria:

1. A valid petition of support per the criteria in Section 17.08.050, signed by property owners and filed with the Local Improvement District Administrator;
2. A recommendation from the Responsible Bureau
3. Its own initiative.

B. Where formation of a sewer local improvement district is ordered pursuant to an Environmental Quality Commission Order and a sewer plan has been developed and adopted by the City Council, preparation of the construction plans and specifications for that improvement may begin without action by the City Council.

C. Prior to initiation of local improvement district formation proceedings:

1. The ~~revenue service and program of the City Administrator~~Bureau of Revenue and Financial Services will identify delinquencies in taxes or City liens of the properties within the proposed local improvement district;
2. The Local Improvement District Administrator will analyze the financial feasibility of the properties within the proposed local improvement district;
3. The Local Improvement District Administrator will analyze project financial feasibility by determining whether the sums assessed together with all unpaid sums then outstanding as assessments against the properties would exceed one-half the real market valuation of the properties as shown on the latest county tax rolls.

17.08.050 Petition for a Local Improvement District.

~~(Amended by Ordinances 190132 and 190816, effective June 17, 2022.)~~

A. A petition of support may be prepared by the Local Improvement District Administrator or by owners of property that may be specially benefited by the proposed improvement.

B. The petition will include:

1. The name or designation of the improvement;
2. A map or clear description of the location of the improvement;
3. The general character and scope of the improvement; and
4. A proposed assessment methodology.

C. The Local Improvement District Administrator will review a petition for the proposed local improvement district to determine if the petition is valid. A petition will be considered valid only when property owned by petition signers added to property covered by waivers of remonstrance and property owned by the City and Prosper Portland represents more than 50 percent of the property in the proposed local improvement district as measured by the proposed assessment methodology. Property owned by the City, including property owned through Prosper Portland, will be counted in support of formation of a local improvement district.

D. The Local Improvement District Administrator will not consider a petition valid if a petition for a substantially similar local improvement district has been filed in the previous 6 months and City Council resolved not to proceed with the substantially similar local improvement district.

E. A petition of support will not be disqualified as a result of a subsequent transfer in property ownership. However, the new property owner has a right to remonstrate against the proposed improvement as provided in Chapter 17.08.

17.08.060 Resolution of Intent.

~~(Amended by Ordinances 190132 and 190816, effective June 17, 2022.)~~

A. The Local Improvement District Administrator will prepare and file a Resolution of Intent for the City Council's consideration subsequent to any of the following:

1. After the review specific in Section 17.08.050 the Local Improvement District Administrator determined a petition is valid; or
2. A Responsible Bureau recommends initiation of a local improvement district; or

3. A member of City Council requests initiation of a local improvement district.

B. The Resolution of Intent will include the following:

- 1.** The name or designation of the improvement;
- 2.** The location of the improvement;
- 3.** A map or clear description of the local improvement district boundary;
- 4.** The general character and scope of the improvement;
- 5.** A preliminary estimate of the total cost of the local improvement;
- 6.** The proposed assessment methodology;
- 7.** The proportion of funding to be borne by property owners and other sources, if applicable;
- 8.** The designated Responsible Bureau if the project scope is not addressed by Section 17.08.010;
- 9.** A statement of whether the City Council intends to construct the improvement;
- 10.** Direction to the Local Improvement District Administrator to do one of the following:
 - a.** Initiate formation proceedings on the proposed local improvement district; or;
 - b.** Suspend proceedings on the proposed local improvement district; or
 - c.** Terminate the process for forming the proposed local improvement district.

C. If City Council passes a Resolution of Intent to construct the improvements, City Council will direct the Local Improvement District Administrator to initiate local improvement district formation proceedings as set forth in Section 17.08.070.

D. The City Council may direct that the engineering and construction work will be done in whole or in part by the City, by a contract, by direct employment of labor, by another governmental agency, or by any combination thereof. Projects partially or fully funded by local improvement district revenue will be subject to competitive bidding. Local improvement districts will not be subject to Subsection 5.34.150 H. of City Code unless this Section is waived in the ordinance forming the local improvement district.

E. If a petition is not valid, but the City Council determines that an improvement should be constructed, it may initiate the proceedings by adopting a Resolution of Intent to construct the improvement.

F. If the City Council determines that some other construction, such as installation of water lines, sewer lines prior to a street improvement, installation of fire hydrants, utility lines or conduits, conduits for underground service for street lights, or any other underground construction should precede the particular proposed improvement, then the City Council may suspend the proceedings for the proposed improvement until such construction has been started or completed.

G. If the City Council passes a Resolution of Intent to terminate the process for forming the local improvement district or considers but fails to pass a resolution to initiate local improvement district formation proceedings, no further action will be taken by the Local Improvement District Administrator on the local improvement district for a period of 6 months, other than actions to close the project.

17.08.070 Local Improvement District Formation and Remonstrances.

~~(Amended by Ordinances 189413, 190132 and 190816, effective June 17, 2022.)~~

A. Notice of Public Hearing

1. Publication Notice: Except as otherwise provided by Charter for changes to street grades, the Local Improvement District Administrator will publish 2 notices of the City's intent to form a local improvement district by publication in a paper of general circulation in the City at least 14 calendar days before the Formation Hearing . The notices will include the following information:

- a.** The time, date and place of the formation hearing before City Council;
- b.** The name of the proposed local improvement district;
- c.** A description of the type and scope of improvements to be made;
- d.** A map or description of the properties proposed for inclusion in the local improvement district for which a legal description is not required;
- e.** A preliminary estimate of the total cost of the local improvement based on the preliminary engineer's estimate;
- f.** The methodology or methodologies by which properties will be assessed, which may include neither assessed valuation nor real market valuation as elements;
- g.** A statement that the proposal could be modified as a result of the testimony at the formation hearing and that property owners should

attend the hearing to have an opportunity to testify on proposed changes;

h. A statement mentioning the right to remonstrate, who may remonstrate, how remonstrances can be made, the deadline for filing remonstrances; and where remonstrances must be filed; and

i. Contact information for the Local Improvement District Administrator.

2. Posting Notice: At least 14 calendar days before the local improvement district formation hearing, the Local Improvement District Administrator will cause to be posted conspicuously within the proposed local improvement district, at least two notices headed "Notice of Proposed Improvement" in letters not less than 1 inch in height, and the notices will contain in legible characters the information required in Subsection 17.08.070 A.1. The Local Improvement District Administrator will place an affidavit of the posting of such notices within the project file, stating therein the date when and places where the notices have been posted.

3. Mail Notice: At least 21 calendar days before the local improvement district formation hearing on the proposed improvement, the [revenue service and program of the City Administrator](#)~~Bureau of Revenue and Financial Services~~, at the direction of the Local Improvement District Administrator, will mail to the owner of each property within the proposed local improvement district, a notice containing the following:

a. The information required in Subsection 17.08.070 A.1.;

b. A description of the property; and

c. A preliminary estimate of the assessment for the property.

4. A record will be kept of the mailing, posting and publication of any notice required by this Ordinance. Any mistake, error, omission or failure with respect to publication, posting or mailing notice will not affect City Council's jurisdiction to proceed or otherwise invalidate the local improvement proceedings when notice is provided by at least one of the methods in this Section.

B. Remonstrances

1. If property owners choose to remonstrate against the proposed improvement such remonstrances must be received by the [revenue service and program of the City Administrator](#)~~Bureau of Revenue and Financial Services~~ by 5:00 PM 7 calendar days prior to the local improvement district formation hearing. A remonstrance must be in writing and must be delivered in person or by first class U.S. mail to the [revenue service and program of the City Administrator](#)~~Bureau of Revenue and Financial Services~~. The [revenue](#)

[service and program of the City Administrator](#)~~[Bureau of Revenue and Financial Services](#)~~ is not responsible for remonstrances sent via facsimile or via e-mail. The remonstrance will state the reasons for the objection. Any person acting as agent or Attorney with power to act in signing the remonstrance will, in addition to describing the property affected, file with the remonstrance a copy in writing of the authority to represent the owner or owners of property. The [revenue service and program of the City Administrator](#)~~[Bureau of Revenue and Financial Services](#)~~ will forward the remonstrance to the Local Improvement District Administrator for a response. A written remonstrance may be withdrawn at any time before the close of the City Council hearing on the formation of the local improvement district.

2. Owners of property covered by waivers of remonstrance may submit an objection; however such an objection will not be considered for purposes of determining City Council jurisdiction as provided by Chapter 9 of the City Charter for the particular type of improvement.

3. The number of remonstrances that will defeat formation of a proposed local improvement district will be as provided by Chapter 9 of the City Charter for the particular type of improvement.

C. Formation Ordinance

1. The local improvement district formation ordinance will contain at least the following findings:

a. Name of the proposed local improvement district;

b. A general description of the project scope as may also be shown on a typical section;

c. A description of the proposed local improvement district with a reference to specific local improvement district boundaries, or a map showing the properties proposed for inclusion in the local improvement district;

d. A preliminary estimate of the total cost of the local improvement, including design, construction, engineering, project management and financing;

e. The assessment methodology or methodologies by which benefit within the local improvement district will be assigned;

f. A preliminary estimate of assessments for each property owner within the local improvement district based on the proposed assessment methodology or methodologies;

g. A statement as to the financial feasibility of the local improvement district, based on the preliminary estimate of assessments and outstanding past assessments and taxes; and

h. An exhibit containing findings addressing each remonstrance received, and number of remonstrances received.

2. The local improvement district formation ordinance will contain, at a minimum, directives that:

a. Create the local improvement district;

b. Include benefited properties in the local improvement district as shown on an attached exhibit;

c. State the property owners' share of the costs that the benefited properties will be assessed, and any other entities' shares, as applicable;

d. State the assessment methodology;

e. Direct the City Administrator~~Responsible Engineer~~ to arrange for the preparation of plans and specifications;

f. Direct the City Administrator~~Responsible Engineer~~ to arrange for construction of the improvement;

g. Direct the revenue service and program of the City Administrator~~Bureau of Revenue and Financial Services~~ to obtain interim financing to pay for local improvement costs prior to bonding; and

h. Sustain or overrule any remonstrances received.

D. Local Improvement District Formation Hearing

1. The City Council will hold a public hearing on the proposed improvement. As provided by Subsection 17.08.070 A.3., the hearing will be held at least 21 calendar days after the date notice was deposited in the mail. The City Council may continue or discontinue the proceedings; may direct a modification of its resolution of intent; or may direct formation of the local improvement district and override any remonstrances, provided the City Council retains jurisdiction as provided by Chapter 9 of the City Charter for the particular type of improvement. The City Council may direct a modification to the location or scope of the improvement, and/or to the local improvement district that~~which~~ it deems will be benefited by the improvement; or make such other modifications in the proceedings as it finds reasonable.

2. Modification of Scope of Improvements: If the City Council significantly and materially modifies the scope of the improvement within the adopted formation ordinance so that an assessment is likely to be significantly and materially increased upon one or more properties, or if the City Council enlarges the local improvement district within the adopted formation ordinance, then a new preliminary estimate of assessments will be made and new notices will be sent to the property owners within the proposed local improvement district, and another hearing will be held. The notice will advise property owners who still wish to remonstrate that their remonstrance must be resubmitted. However, no new publication or posting will be required. In the event of modification that meets the objection of any remonstrance, such remonstrance will not be counted as such unless renewed following such modification.

3. Decision to Form Local Improvement District: Upon completion of the hearing process, the City Council may approve or decline formation of a local improvement district by ordinance. As provided in Subsection 17.08.070 C.1., a decision to approve formation of a local improvement district will be supported by findings supporting a conclusion of special benefit and addressing the remonstrances, and will direct the Local Improvement District Administrator to arrange for construction of the local improvement.

4. If the City Council approves formation of the local improvement district, the [City Administrator](#)[Responsible Engineer](#) will arrange for the preparation of plans and specifications. Upon completion, approved plans will be available for inspection at the Responsible Bureau for at least the minimum time period specified in its Records Retention and Disposition Schedule. The local improvement may be constructed and/or engineered in whole or in part by the City or by another government agency, or the City may seek bids for any portion of the local improvement. Projects partially or fully funded by local improvement district revenue will be subject to competitive bidding and will not be subject to Subsection 5.34.150 H. of City Code unless this Section is waived in the ordinance forming the local improvement district.

5. The City Council will have final determination of the kind and character of the local improvement, its location and extent, materials to be used, and all matters contained in the plans and specifications.

6. The City Council will also have final determination of the assessment methodology and boundaries of the local improvement district that is to be assessed for the costs of the improvement, except that the assessment methodology may not include a criterion based on real market valuation or assessed market valuation. The possibility or likelihood that some property contained in the property description of the proposed local improvement district may not be benefited by the proposed improvement will not invalidate the local improvement district description.

7. Upon City Council's passage of an ordinance forming a local improvement district, the assessment methodology may not be changed except by City Council Ordinance notwithstanding concurrence among the property owner(s), nor can the assessment obligation be transferred to a property not included in the local improvement district. No release of obligation will be made by the ~~revenue service and program of the City Administrator~~Bureau of Revenue and Financial Services until after final assessment is made.

17.08.080 Changes to Scope or Cost of Improvements and Notice to Proceed.

~~(Amended by Ordinance 182760 and 190132, effective October 16, 2020.)~~

A. After formation of a local improvement district, City Council will hold a public hearing to consider significant and material changes to the proposed scope or significant and material changes to the estimate of the total cost of the local improvement district that may arise during the course of final engineering ~~that~~which would result in a significant and material increase to the future assessment of properties per the assessment methodology established in the Formation Ordinance.

B. For such a hearing, notice will be in the manner provided by Section 17.08.070. In addition to meeting the provisions of Section 17.08.070, the notice will also state the nature of the proposed modifications to the scope of improvements or to the preliminary estimate of the total cost of the local improvement previously approved at the Local Improvement District formation hearing. Property owners will have the opportunity to remonstrate against the significant and material changes in the manner provided by Section 17.08.070 and the remonstrance only pertains to the significant and material increase and/or the significant and material scope change and not to the original local improvement district as approved by Council per Section 17.08.070. If the improvement district was initiated by petition, no new petition will be required.

C. The ~~City Administrator~~Responsible Engineer may issue a Notice to Proceed to begin construction provided that:

1. There are no significant and material changes to the scope of the local improvements; or
2. There are no significant and material changes to the preliminary estimate of assessments for the benefiting properties in the local improvement district; or
3. The City Council has approved significant and material changes to scope and/or cost of the improvements as provided in this section.

Construction of the local improvement will be in substantial accordance with the plans and specifications adopted by the ~~City Administrator~~Responsible Engineer.

17.08.090 Abandonment of Local Improvement District.

~~(Amended by Ordinance 190132, effective October 16, 2020.)~~

The City Council will have full power and authority to abandon and rescind proceedings for local improvements at any time prior to the final completion of the improvements.

17.08.100 Completion of Construction.

~~(Amended by Ordinances 182760 and 190132, effective October 16, 2020.)~~

A. After the work financed by the local improvement district has been completed satisfactorily, the ~~City Administrator~~Responsible Engineer will prepare a certificate of completion. The ~~City Administrator~~Responsible Engineer will also prepare a final engineer's estimate showing the costs of all engineering and construction work performed. The certificate of completion will be deemed acceptance by the City of the local improvement work.

B. Authorization for final payment will be made as provided by Chapter 5.33 of City Code.

C. The Local Improvement District Administrator will include the final engineer's estimate and a copy of the certificate of completion with the filing of the Final Assessment Ordinance as set forth in Section 17.08.130.

D. Notice of completion of the work need not be provided except as may be required elsewhere in City Code.

E. If a local improvement is substantially complete except for contract closeout, or if a scope of improvement included in the construction contract but not included in the local improvement is incomplete, the ~~City Administrator~~Responsible Engineer at the discretion of the Responsible Bureau may file a written report attesting that the local improvements are complete in lieu of a certificate of completion. The provisions set forth in Subsection 17.08.100 A. apply, except that the written report substitutes for the certificate of completion. Any further project or financing costs incurred subsequent to final assessment will be the responsibility of the Responsible Bureau, not of the property owners.

17.08.110 Total Cost of Local Improvement.

~~(Amended by Ordinances 189413, 190132 and 190816, effective June 17, 2022.)~~

A. After the work financed by a local improvement district has been accepted as complete, the Local Improvement District Administrator will determine the total cost of the local improvement, including costs identified in the final engineer's estimate and any pending costs.

B. The total cost of the local improvement that may be assessed against the properties specially benefited by the improvement will include, but not be limited to the following:

1. Direct or indirect costs incurred in order to undertake the capital construction project such as the costs of labor, materials, supplies, equipment, permits, survey, engineering, administration, supervision, inspection, insurance, advertising and notification, administration, accounting, depreciation, amortization, operation, maintenance, repair, replacement, contracts, debt service and assessment;
2. Financing costs, including interest charges; the costs of any necessary property, right-of-way or easement acquisition and condemnation proceedings; and
3. Attorneys' fees and any other actual expense as allowed by state law.
4. The total cost of the local improvement that may be assessed against the properties specially benefited by the improvement will not include Portland Bureau of Transportation overhead costs unless this Section is waived in the ordinance forming the local improvement district.

C. Engineering and project management performed by the City in connection with local improvements will be charged at the rate of 100 percent of the direct cost of services performed computed in accordance with the provisions of Section 5.48.030. The ~~City Administrator~~Responsible Engineer will prepare a final engineer's estimate of the engineering and construction costs. A final estimate of the total project costs, including costs reflected in the final engineer's estimate, will be prepared by the Local Improvement District Administrator.

D. The ~~revenue service and program of the City Administrator~~Bureau of Revenue and Financial Services will maintain a fee schedule that will be used for determining the charge to be made for ~~Bureau of Revenue and Financial Services'~~ administrative services and general City administrative services in connection with local improvements. These charges will include a Superintendency fee; a recording fee which will be fixed regardless of the amount of the assessment; and a monthly billing fee if the property owner does not pay the full assessment at the time it is levied.

17.08.120 Alternative Financing Methods.

~~(Amended by Ordinance 190132, effective October 16, 2020.)~~

Nothing contained in this Chapter will preclude the City Council from using any other available means of financing portions of local improvements, including but not limited to city funds, federal or state grants, user charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance. In the event that such other means of financing improvements are used, the City Council may make assessments to pay any remaining part of the total costs of the local improvement.

17.08.130 Final Assessment and Objections.

~~(Amended by Ordinances 182760, 184957, 189413, 190132 and 190816, effective June 17, 2022.)~~

A. Apportionment of Proposed Final Assessments

1. Whenever any local improvement, any part of the cost of which is to be assessed upon the property specially benefited ~~thereby~~ the improvement, is completed in whole, or in such part that the cost of the whole can be determined, the Local Improvement District Administrator will file the final estimate of the total cost of the local improvement and prepare a proposed final assessment according to the assessment methodology approved by City Council upon the properties in the local improvement district, including upon any land owned by the City.
2. If the City Council has determined that a portion of the total cost of the local improvement is to be paid from public funds, other than the benefit assessment to be imposed upon land owned by the City and lying within the local improvement fixed by the City Council, the Local Improvement District Administrator will deduct from the total cost of the local improvement such allocation of costs to public funds provided by the City Council and will apportion the remainder of such total cost on the properties within the local improvement.
3. When the Local Improvement District Administrator has calculated the assessment for each property, the Local Improvement District Administrator will file the proposed final assessment roll with the City Council through the ~~Commissioner in Charge of the Responsible Bureau~~ City Administrator.

B. Notice of Proposed Final Assessments

1. At least 21 calendar days before the public hearing on the proposed final assessment, the ~~revenue service and program of the City Administrator~~ Bureau of Revenue and Financial Services at the direction of the Local Improvement District Administrator will provide notice to the owner of each property or to the owner's agent as shown in the County tax record either by mail or by personal delivery. The notice will state:
 - a. The property description;
 - b. The amount of the proposed final assessment against the property;
 - c. A statement that this amount could be modified as a result of objections filed by other property owners in the local improvement district unless the cost to property owners is fixed;
 - d. The date, time and place of the final assessment hearing;

e. The deadline and manner for filing objections to the proposed final assessment; and

f. Contact information for the Local Improvement District Administrator.

2. The Local Improvement District Administrator will publish 2 notices of the proposed final assessment in a newspaper of general circulation in the City at least 14 calendar days prior to the final assessment hearing.

3. A record will be kept of the mailing and publication of any notice required by this Ordinance. Any mistake, error, omission or failure with respect to publication or mailing notice will not affect City Council's jurisdiction to proceed or otherwise invalidate the local improvement proceedings when notice is provided by at least one of the methods in this Section.

C. Final Assessment Hearing and Objections

1. Any owner of property (except property owned by the City or Prosper Portland) proposed to be assessed a share of the cost of a local improvement may file an objection to the proposed final assessment in writing with the revenue service and program of the City AdministratorBureau of Revenue and Financial Services. The objection must be received by the revenue service and program of the City AdministratorBureau of Revenue and Financial Services no later than 5:00 PM 7 calendar days prior to the hearing by City Council on the proposed final assessment. The revenue service and program of the City AdministratorBureau of Revenue and Financial Services will forward the objection to the Local Improvement District Administrator for a response. The objection will be filed in the same manner as set forth in Subsection 17.08.070 B. and will state the reasons for the objection. However, objections received to final assessment will not affect City Council jurisdiction over final assessment proceedings.

2. The City Council will hold a hearing on any objections on the date set forth in the notice, and at that time will consider objections made by the owners of property at the hearing. The hearing may be continued as the City Council may find appropriate.

3. At the hearing, the City Council at its discretion will determine and approve the amount to be assessed upon each property within the local improvement district, which amount does not exceed the special benefits accruing to such property from the improvement and the sum of which amount and other amounts assessed against properties within the local improvement district do not exceed the total cost of the local improvement. The amount of each assessment as determined by City Council will be based on the City Council's finding of special benefit to the property.

D. Final Assessment Ordinance

1. The City Council will pass an assessing ordinance that will set forth the assessments against the respective properties within the local improvement district.

2. The ordinance will:

a. Include an exhibit containing findings addressing each objection received, and number of objections received

b. State the total cost and assessment methodology used

c. Include a statement that each property is specifically benefited in the amount shown in the assessment roll;

d. Include a statement that the project has been constructed as provided in the adopted plans and specifications, and, if the provisions set forth in Subsection 17.08.100 E. have been invoked, a copy of the written report from the [City Administrator](#)~~Responsible Engineer~~ attesting that the local improvements are complete in-lieu of a certificate of completion; and

e. Contain a directive to sustain or overrule the objections.

3. Upon passage of the assessing ordinance, the [revenue service and program of the City Administrator](#)~~Bureau of Revenue and Financial Services~~ will enter the assessments in the docket of City liens and follow the assessment procedure set forth in Chapter 17.12. As provided by City Charter, the assessment ordinance will take effect immediately upon passage or on any date fewer than 30 days after passage that is specified in the final assessment ordinance.

4. Claimed mistakes in the calculation of assessments will be brought to the attention of the Local Improvement District Administrator, who will determine whether there has been a mistake. If the Local Improvement District Administrator finds that there has been a mistake, the Local Improvement District Administrator will recommend to the City Council an amendment to the assessment ordinance to correct the error. On enactment of an amendment, the [revenue service and program of the City Administrator](#)~~Bureau of Revenue and Financial Services~~ will cause the necessary correction to be made in the City lien docket. Such correction will not change assessments against any other property within the local improvement district.

E. Formation of a new local improvement district: In the event a court of law holds that the formation of a local improvement district was invalid or improper procedures were used, property owners may be assessed after the new local improvement district is formed if the properties are again included.

Chapter 17.12 Assessments

~~(Chapter amended by Ordinance 163420, effective September 29, 1990.)~~

17.12.010 Lien Docket and General Assessment Procedure.

~~(Replaced by Ordinance 177124, effective January 10, 2003.)~~

A. The City will maintain a lien docket and general assessment procedure as set forth in the Chapter for the assessment of:

1. Local improvement district assessments.
2. System development charge assessments.
3. Sidewalk maintenance and repair assessments.
4. Enforcement of City Code; and
5. Other assessments prescribed by City Code.

B. In addition to the general assessment procedure set forth in this Chapter, specific assessment procedures are set forth as follows:

1. Local improvement district assessment procedures as set forth in Chapter 17.08;
2. System development charge assessment procedures are set forth in Chapters 17.13, 17.14 and 17.15; and
3. Sidewalk maintenance and repair assessment procedures are set forth in Chapter 17.28.

~~**17.12.020 Allowance for Engineering and Administration.**~~

~~(Repealed by Ordinance 177124, effective January 10, 2003.)~~

~~**17.12.030 Estimate of Cost – Apportionment of Assessments.**~~

~~(Repealed by Ordinance 177124, effective January 10, 2003.)~~

~~**17.12.040 Notices of Proposed Assessments.**~~

~~(Repealed by Ordinance 177124, effective January 10, 2003.)~~

~~**17.12.050 Remonstrances and Hearings.**~~

~~(Repealed by Ordinance 177124, effective January 10, 2003.)~~

17.12.060 Assessing Ordinance.

~~(Amended by Ordinance 189413, effective March 6, 2019.)~~

The City Council may pass an assessing ordinance, effective immediately upon passage as prescribed in the City Charter, which ~~shall~~ will set forth the assessments against the respective properties within the assessment district. Upon such passage the revenue service and program of the City Administrator ~~Revenue Division~~ will ~~shall~~ enter the assessments in the docket of City liens.

17.12.070 Notice of Assessment.

~~(Amended by Ordinance 189413, effective March 6, 2019.)~~

After an assessment has been entered in the lien docket, the revenue service and program of the City Administrator ~~Revenue Division~~ will ~~shall~~ send a bill for the assessment by mail to each person whose property is assessed or to the owner's agent as shown in the County tax record.

17.12.080 Payment of City's Share.

The City Council may provide for the payment into the particular local improvement assessment fund of any share allocated by the Council to be paid from public funds, and also any assessments imposed by it against City owned property.

~~17.12.090 Deficit Assessment.~~

~~(Repealed by Ordinance 177124, effective January 10, 2003.)~~

17.12.100 Surplus.

If the total cost of an improvement is found to be less than the total sum previously assessed therefor, the surplus will ~~shall~~ be apportioned and paid in accordance with Charter provisions.

~~17.12.110 Reassessment.~~

~~(Repealed by Ordinance 177124, effective January 10, 2003.)~~

17.12.120 Correction of Mistake in Assessment - Refund or Overpayment.

~~(Amended by Ordinance 173369, effective May 12, 1999.)~~

A mistake in assessment or entry thereof in the lien docket may be corrected as prescribed by the Charter. In case of overpayment because of such mistake or otherwise, the person who paid such excess or ~~his or her~~ the person's legal representative, heirs or assigns, is entitled to repayment of the same by check drawn upon the fund receiving such overpayment.

~~17.12.125 Mid-County Sewer Financial Assistance Program.~~

~~(Repealed by Ordinance 182760, effective June 5, 2009.)~~

17.12.130 Segregation of Assessments.

~~(Amended by Ordinances 177124, 182760 and 189413, effective March 6, 2019.)~~

A. A lien against the real property in favor of the City may be segregated on the application of the owner(s), subject to the provisions of this section and any rules adopted by the ~~City Administrator~~Revenue Division.

B. Applications ~~shall~~must be made to the ~~Revenue Division~~City Administrator and ~~shall~~must include:

1. A legal description of each tract to be segregated;
2. Documentation demonstrating that each tract to be segregated is a lot or parcel created by a subdivision, partition or other division of the original tract of land in accordance with ORS 92.010 to 92.190, and is consistent with all applicable comprehensive plans;
3. The names of the owners of each tract, and the name of each person who will own each parcel should the segregation be approved; and
4. A full legal description that will be assigned by the County Assessor for each lot or parcel that is created as a result of the segregation.

C. No segregation ~~shall~~may be made unless each part of the original tract of land after the segregation has a true cash value, as determined from the certificate of the county assessor, of 200% or more of the amount of the lien as to each segregated tract concerned.

D. The ~~revenue service and program of the City Administrator~~Revenue Division ~~will~~shall compute a segregation of the lien against the real property on the same basis as it was originally computed and apportioned and ~~will~~shall record the segregation in the lien docket. If the original tract has been divided by filing of a condominium plat, the applicant for segregation may propose an alternative, equitable basis for computing segregation of the lien. The alternative proposed segregation ~~will~~shall be subject to the Council's approval by ordinance.

E. No assessment ~~shall~~may be segregated until all outstanding delinquent City liens on the property are brought current.

F. The ~~revenue service and program of the City Administrator~~Revenue Division ~~will~~shall charge a fee for the segregation of assessments. The fee will be based in part on the number of lots or parcels that result from the segregation. The segregation fee may be amended from time to time and ~~will~~shall be stated in the

Fees & Charges schedule maintained in the [revenue service and program of the City AdministratorRevenue Division](#).

17.12.140 Bonding.

~~(Amended by Ordinances 173369, 177124 and 189413, effective March 8, 2019.)~~

A. Within 30 days of the entry in the lien docket a property owner may apply to pay the assessment, deficit assessment or re assessment or the amount remaining unpaid by installments as stated in the signed installment payment contract. The contract ~~shall~~must be in accordance with the terms and provisions of ORS 223.215. The contract ~~shall~~must be received by the [revenue service and program of the City AdministratorRevenue Division](#) subject to the limitations prescribed in this Section. The City may accept contracts after the 30-day period stated in this Section under procedures established by the [revenue service and program of the City AdministratorRevenue Division](#).

B. If the sum assessed together with all unpaid sums then outstanding as assessments against the property exceeds one-half the real market valuation of the property as shown on the latest county tax rolls, then the [revenue service and program of the City AdministratorRevenue Division](#) ~~shall~~may reject the application unless the excess is paid in cash with the application and the application is made for the remainder only.

C. If the installment payment contract has been received and is in force, the City Treasurer may accept prepayments of any installments without penalty for the prepayment. Whenever an installment is paid, accrued interest to the due date of the installment on the unpaid assessment balance, plus interest on the past due installment if any, ~~shall~~must be paid with the installment.

D. In addition to the procedures provided for in Subsections A. through C above, the procedures for bonding improvement assessments authorized by the Bancroft Bonding Act (ORS 223.205, 223.930) may be followed for improvement assessments when the Council so directs in the ordinance making the assessment.

E. For purposes of this Section the term “property owner” means the owner of the Title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the Office of the County Assessor.

F. Interest rates for bonded assessments ~~shall~~will be set using an adjusted rate mechanism. The City Council ~~shall~~will set an interim rate by ordinance, which ~~shall~~will be applied to the unpaid balance until improvement bonds are sold to finance the bonded assessments. Upon sale of bonds, the [revenue service and program of the City AdministratorRevenue Division](#) ~~shall~~will adjust the interest rate to the rate received by the City on the bond issue (expressed as true interest cost) plus a fee to cover insurance and discount on the bonds. All subsequent payments will be made at the new adjusted rate. Property owners who sign an installment contract for systems development charges ~~will~~shall receive the adjusted rate.

G. Bond financing fees ~~will~~shall be charged to each installment contract to defray the costs of financing per a fee schedule on file with the ~~revenue service and program of the City Administrator~~Revenue Division. The fee schedule will include a loan creation fee as well as a bond financing fee. Bond financing fees are in addition to costs set forth in Chapter 17.08.

H. The City may charge a bond reserve fee on each installment payment contract to facilitate the sale of the improvement bonds. Proceeds from the bond reserve fee ~~will~~shall be dedicated to a reserve account and used as security for the improvement bonds that the City sells to finance the installment payment contract. A separate bond reserve account ~~will~~shall be created for each bond sale as required by the terms of the sale. This fee ~~will~~shall be in addition to the fees set forth in Chapter 17.08 and in Section 17.12.140 G.

I. The ~~revenue service and program of the City Administrator~~Revenue Division ~~will~~shall charge a billing and service charge, which ~~will~~shall be added to each statement and ~~will~~shall be in addition to principal, interest, penalties, costs and other fees. This fee ~~will~~shall be per a schedule on file with the ~~revenue service and program of the City Administrator~~Revenue Division. This fee ~~will~~shall be in addition to the fees set forth in this Chapter 17.08, Section 17.12.140 G. and Section 17.12.140 H.

17.12.150 Rebonding.

A. If the Council specifically approves the same, a property owner who has bonded an assessment a portion of which remains unpaid, or a property owner whose assessment on such property has been subdivided as provided in the Charter, may apply for a rebonding if all taxes then due have been paid upon the property, no outstanding liens have been filed against the property, and if all the conditions applicable to initial bonding are met at the time of rebonding application. The rebonding application may include all unpaid assessment amounts remaining due and unpaid. All provisions relating to rebonding contained in the statutes of the State ~~shall~~are applicable.

B. As used in this Section, the term "property owner" ~~shall~~means the owner of the Title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the Office of the County Assessor.

~~17.12.160 Monthly Payments on Assessments.~~

~~(Repealed by Ordinance 161797, effective May 12, 1989.)~~

17.12.170 Collection.

After 30 days from the date of entry in the lien docket of a sum assessed, whether by initial assessment, deficit assessment or reassessment, the amount of the delinquency together with interest and any costs may be collected as provided in the City Charter.

~~17.12.180 Redemption.~~

~~(Repealed by Ordinance 161797, effective May 12, 1989.)~~

~~17.12.190 Applicability of Charter Provisions.~~

~~(Repealed by Ordinance 161797, effective May 12, 1989.)~~

~~17.12.200 Alternate Procedures.~~

~~(Repealed by Ordinance 161797, effective May 12, 1989.)~~

Chapter 17.13 Parks and Recreation System Development Charge

~~(Chapter added by Ordinance No. 172614, effective October 1, 1998.)~~

17.13.010 Scope and Purposes.

~~(Amended by Ordinances 181669, 187150 and 189244, effective November 7, 2018.)~~

A. New development within ~~the City of~~ Portland contributes to the need for capacity increases for parks and recreation facilities and, therefore, new development should contribute to the funding for such capacity-increasing improvements. This system development charge (SDC) will fund a portion of the needed capacity-increasing capital improvement projects as identified in the ~~City of Portland~~ Parks and Recreation SDC Capital Improvement Plan (SDC-CIP).

B. ORS 223.297 through 223.314 grant the City authority to impose an SDC to equitably spread the costs of essential capacity-increasing capital improvements to new development.

C. The SDC is incurred upon the application to develop property for a specific use or at a specific density. The decision regarding uses, densities, and/or intensities causes direct and proportional changes in the amount of the incurred charge. The SDC is separate from other fees provided by law or imposed as a condition of development. It is a fee for service because it contemplates a development's receipt of parks and recreation services based upon the nature of that development.

D. The SDC imposed by this Chapter is not a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or legislation implementing that section. This Chapter does not shift, transfer, or convert a government product or service, wholly or partially paid for by ad valorem property taxes, to be paid for by a fee, assessment or other charge, within the meaning of Section 11g, Article XI of the Oregon Constitution.

E. The funding provided by this Chapter constitutes a mandatory collection method based upon the guidelines set forth in ORS 223.297 through 223.314 to ~~as~~ensure the provision of capacity-increasing improvements for parks and recreation facilities as identified in the Parks and Recreation SDC-CIP incorporated as an Appendix to the most recently adopted Parks SDC Methodology Report. The Parks and Recreation SDC-CIP is different from the City of Portland Parks and Recreation Capital Improvement Program and may be modified from time to time by the Council or by the ~~Director~~City Administrator, as provided in this Chapter.

F. This Chapter is intended only to be a financing mechanism for a portion of the capacity increases needed for parks and recreation facilities associated with new development and does not represent a means to fund maintenance of existing facilities or the elimination of existing deficiencies.

G. The SDC imposed by this Chapter is supported by the most recent Park System Development Charge Methodology Update Report adopted by the Council. The Council may from time to time amend or adopt a new SDC Methodology Report by ordinance.

17.13.020 Definitions.

~~(Amended by Ordinances 173386, 173565, 174617, 176511, 181669, 187150, 189244 and 189924, effective May 15, 2020.)~~

A. **“Acquisition”** means the addition, by purchase or donation, of a real property interest, and includes such physical activities, referred to as “stabilization,” as are necessary to make the land suitable for development or use, including, but not limited to, fencing, demolition of existing structures, landscaping and restoration, or installation of security systems.

B. **“Administrator”** means that person designated by the Director to manage and implement this Parks and Recreation SDC program.

C. **“Applicant”** means the person or entity who applies for a building permit.

D. **“Application”** means the Parks SDC Information Form together with other required forms and documents submitted at the time of application for a building permit.

E. **“Building Official”** means that person, or other designated authority charged with the administration and enforcement of the state building codes for the City, or a duly authorized representative.

F. **“Building Permit”** means a permit issued by the City Building Official pursuant to the state building codes.

G. **“Campus Housing”** means dormitories and other buildings arranged and designed as living quarters on a college or university campus for students enrolled at

that college or university. College or university campus is any property owned or controlled by the college or university within a Conditional Use Master Plan, Impact Mitigation Plan or other campus zone boundary.

H. “Central City” means the area identified in the SDC Methodology Report as the Central City Service Area, and whose boundaries are included on the map in the SDC Methodology Report. This area is also referred to as the Central City Sub-Area.

I. “City” means the City of Portland, Oregon.

J. “Condition of Development Approval” is any requirement imposed on an Applicant by a City land use or limited land use decision, site plan approval or Building Permit either by operation of law, including but not limited to [the Portland City Code](#) or [associated rules or regulation adopted thereunder](#), or a condition of approval.

K. “Cost Index” means the Seattle Engineering News Record (ENR) Construction Cost Index.

L. “Credit” means the amount by which an Applicant may be able to reduce the SDC fee as provided in this Chapter.

M. “Development Agreement” means a written agreement approved by the [Director-City Administrator](#) that is:

1. An agreement between the City and another entity that includes as an element the conveyance to the City of capacity-increasing Real Property Interests or capacity-increasing capital improvements, for parks and recreation use, in connection with the undertaking of a New Development that is subject to the SDC imposed by this Chapter; or
2. An agreement between agencies of the City that includes as an element the acquisition of capacity-increasing Real Property Interests or construction of capacity-increasing capital improvements, for parks and recreation use, in connection with a New Development that is subject to the SDC imposed by this Chapter; or
3. An agreement for the donation of capacity-increasing Real Property Interests or capital improvements, for parks and recreation use, that provides for the consideration of the donation as a Qualified Public Improvement in a subsequent New Development subject to the SDC imposed by this Chapter; or
4. An agreement under Subsections 1.-3. of this Section that, instead of or in addition to the conveyance of Real Property Interests or capital improvements, provides for donation to the City of money to be used for the

acquisition of capacity-increasing Real Property Interests or the development of capacity-increasing capital improvements, for parks and recreation use.

N. “Director” means the Director of Portland Parks & Recreation ~~for the City of Portland.~~

O. “Dwelling Unit” means one or more habitable rooms, as defined in City Code Section 24.15.075.

P. “Non-Central City” means all portions of the City outside the Central City Service Area.

Q. “Non-Residential Development” means development ~~which~~ that does not include Dwelling Units. When a Development contains both Dwelling Units and other uses, that portion of the Development containing Dwelling Units ~~shall~~ will be considered “Residential Development,” and that portion devoted to other uses ~~shall~~ will be considered “Non-Residential Development.”

R. “New Development” means development for which a Building Permit is required, including existing development for which a required Building Permit was not obtained.

S. “Occupancy Group Codes” means the use codes (A-1, B, H, e.g.) in the Oregon Structural Specialty Code, “Use and Occupancy Classification.”

T. “Occupancy Use Types” means the occupancy classifications in the Oregon Structural Specialty Code, “Use and Occupancy Classification.”

U. “Parks and Recreation SDC Capital Improvement Plan,” also called the Parks and Recreation SDC-CIP, means the City program set forth in the “SDC Methodology Report,” as amended in accordance with this Chapter, of projects to be funded with Parks and Recreation SDC revenues.

V. “Permit” means a Building Permit.

W. “Previous Use” means the most intensive permitted use conducted at a particular property within 36 months before the date of completed Application. Where the property was used simultaneously for several different uses (mixed use), for the purposes of this Chapter all of the specific use categories ~~shall~~ will be considered.

X. “Proposed Use” means the use proposed by the Applicant for the New Development.

Y. “Qualified Public Improvement” means any parks and recreation system capital facility or conveyance of a Real Property Interest that increases the capacity of the City’s Parks and Recreation System, is approved by the ~~Commissioner-in-Charge or designee~~ City Administrator, and meets the definition and requirements of

qualified public improvements under ORS 223.304(4) and 223.304(5). Additionally, unless there is a conflict with ORS 223.304(4) or 223.304(5), the following will be considered qualified public improvements:

1. A conveyance of Real Property Interests or capital improvements for public recreational use specified in a Development Agreement between the City and a developer entered into before the effective date of this [Ordinance Section](#). Conveyances of Real Property Interests or capital improvements for public recreational use specified in a Development Agreement between the City and a developer entered into after the effective date of this [Ordinance Section](#) are excluded from the definition of “qualified public improvement” unless the Development Agreement specifically provides otherwise. If the Development Agreement does include conveyances of Real Property Interests that are intended to be eligible for Parks SDC Credits, the value of the Real Property Interests must be established at the time the Development Agreement is finalized by the appraisal methods described in Section 17.13.070. The date of valuation is the date of the final Development Agreement. If there are subsequent amendments to the Development Agreement, the date of valuation will be the date of the original Development Agreement unless otherwise specified in future amendments.

2. A donation of money to the City to be used for acquisition of Real Property Interests or capital improvements for parks and recreational use, if memorialized in a Development Agreement.

3. A donation of a habitat or trail. If the donation is a habitat, it must be adjacent to a Portland Parks property, or it must be a minimum of 3 contiguous acres with at least 66 percent of its area covered by the City’s environmental overlay zone. If the donation is a trail, it must be a major public trail designated on the City’s Official Zoning Maps.

4. An improvement or conveyance of Real Property Interests for parks and recreational use that does not otherwise qualify as a Qualified Public Improvement; is not separately eligible for a credit, bonus, or other compensation; and, in the opinion of the [Director-City Administrator](#) in their reasonable discretion, serves the City’s public parks and recreation needs.

Z. “Real Property Interests” means fee title, easement, or other permanent interests in real property as documented in a written conveyance.

AA. “Remodel” or “remodeling” means to alter, expand or replace an existing structure.

BB. “Resident Equivalent” means a measure of the impact on parks and recreation facility needs created by Non-Residential Development, as compared to the impact of a resident.

CC. “SDC Methodology Report” means the methodology report entitled Parks System Development Charge Methodology Update Report, dated April 15, 2015 and adopted as Exhibit A to Ordinance 187150, as may be modified.

DD. “Temporary use” means a construction trailer or other non-permanent structure.

17.13.030 Rules of Construction.

~~(Amended by Ordinance 189244, effective November 7, 2018.)~~

For the purposes of administration and enforcement of this Chapter, unless otherwise stated in this Chapter, the following rules of construction ~~shall~~ apply:

A. In case of any difference of meaning or implication between the text of this Chapter and any caption, illustration, summary table, or illustrative table, the text ~~shall~~will control.

B. The word “~~shall~~must” is always mandatory and not discretionary: the word “may” is permissive.

C. Words used in the present tense ~~shall~~ include the future; words used in the singular number ~~shall~~ include the plural and the plural the singular, unless the context clearly indicates the contrary.

D. The phrase “used for” includes “arranged for,” “designed for,” “maintained for,” and “occupied for.”

E. Where a regulation involves two or more connected items, conditions, provisions, or events:

1. “And” indicates that all the connected terms, conditions, provisions or events ~~shall~~ apply;

2. “Or” indicates that the connected items, conditions, or provisions or events may apply singly or in any combination.

F. The word “includes” ~~shall~~does not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

17.13.040 Application.

~~(Amended by Ordinances 181669, 187150, 189244 and 189924, effective May 15, 2020.)~~

This Chapter applies to all New Development throughout ~~the City of~~ Portland. The amount of the Parks and Recreation SDC ~~shall will~~ be calculated according to this ~~S~~section, using the rates set forth in the SDC Methodology Report.

A. Except as otherwise provided in this Chapter, a Parks and Recreation SDC ~~shall will~~ be imposed upon all New Development for which an Application is filed on or after the effective date of this ~~ordinance~~Section.

B. The Applicant ~~shall must~~ at the time of Application provide the Administrator with the information requested on an SDC application form regarding the Previous Use and Proposed Use(s) of the property, including the following:

1. A description of each of the Previous Uses and Proposed Uses for the property for which the Permit is being sought, including the number of Dwelling Units and square footage for the entire property under the Previous Use and for the Proposed Use(s) of the New Development.
2. For residential uses, the number of residential dwellings and the square footage of each Dwelling Unit.
3. For non-residential uses, the square footage for each occupancy use type (i.e., office, retail, etc.).

C. Except as otherwise provided in this Chapter, the amount of the SDC due ~~shall will~~ be calculated as follows:

1. Calculating the fee for the Proposed Uses (“the Proposed Use Fee”);
 - a. Multiplying the number of Dwelling Units by their appropriate per-unit fee, based on square footage of each individual dwelling unit;
 - b. Multiplying the square footage of each non-Dwelling Unit Proposed Use by the appropriate per-square-foot occupancy fee; and
 - c. Adding the fees for the proposed Dwelling Unit and non-Dwelling Unit uses.
2. Calculating the credit for the Previous Uses (“the Previous Use Credit”); and
 - a. Multiplying the number of Dwelling Units by their appropriate per-unit fee, based on square footage of each individual Dwelling Unit;
 - b. Multiplying the square footage of each non-Dwelling Unit Proposed Use by the appropriate per-square-foot occupancy fee; and
 - c. Adding the credits for the previous Dwelling Unit and non-Dwelling Unit uses.

3. Subtracting the Previous Use Credit from the Proposed Use Fee to arrive at the net Park SDC due. If the Previous Use(s) were vacant for more than 36 months prior to the date of the application, the SDC due ~~shall~~will be the full amount of the SDC for the Proposed Use(s) and no credit ~~shall~~will be provided for Previous Use(s).

D. The dollar amounts of the SDC set forth in the SDC Methodology Report are based on 2013 values and ~~shall~~will be adjusted on July 1, 2017 and ~~thereafter~~ annually on July 1st by the difference of the 3-year moving average of the Cost Index.

E. Notwithstanding any other provision, the adjustment ~~shall~~will not exceed a total of 6 percent in any year. This is calculated by dividing the proposed new rate by the rate of the prior year, or, if a new rate structure was adopted less than 1 year prior, by the variance from the rate most recently adopted. If the resulting change is greater than 6 percent, the rate will be set at 6 percent variance from the rate of 1 year prior, or, if a new rate structure was adopted less than 1 year prior, by the variance from the rate most recently adopted.

17.13.050 Application Requirements.

~~(Amended by Ordinances 176955, 181669, 187150 and 189244, effective November 7, 2018.)~~

All Applications must meet the application completeness requirements of the Planning Bureau and ~~Bureau of Development Services~~Portland Permitting & Development. This ~~Ordinance Chapter~~ applies to all Applications for Building Permits for New Development, ~~which Applications are not yet complete as of the effective date, and to those which are subsequently submitted or made complete~~. Fees are assessed based on the rate schedule in use on the date that the permit Application is made complete. For purposes of this Section, a complete Application must meet all the requirements of Portland Permitting & Development~~the Bureau of Development Services~~.

17.13.060 Partial and Full Exemptions.

~~(Amended by Ordinances 176511, 179008, 181669, 183448, 187150, 189050, 189244, 189323, 189924 and 190381, effective April 30, 2021.)~~

The uses listed and described in this Section will be exempt, either partially or fully, from payment of the Parks and Recreation SDC. Any Applicant seeking an exemption under this Section must specifically request that exemption no later than the time of the City's completion of the final inspection. Where New Development consists of only part of one or more of the uses described in this ~~S~~section, only that ~~those~~ portion~~(s)~~ of the development ~~which that~~ qualifies under this ~~S~~section are~~is~~ eligible for an exemption. The balance of the New Development ~~which that~~ does not qualify for any exemption under this section will be subject to the full SDC. Should the Applicant dispute any decision by the City regarding an exemption

request, the Applicant must appeal as provided by Section 17.13.120. The Applicant has the burden of proving entitlement to any exemption so requested.

A. Temporary uses are fully exempt so long as the use or structure proposed in the New Development will be used for not more than 180 days in a single calendar year.

B. Certain structures and uses are exempt to the extent provided by Section 17.14.070 of [Portland Citythis](#) Code.

C. Alteration permits for commercial interior alteration work are fully exempt, including commercial alterations that change occupancy. This exemption does not apply to alterations that create additional Dwelling Units, nor does it apply to the particular development on a property that previously benefitted from an exemption for mass shelters or short-term housing under Subsection 17.13.060 I.

D. New construction or remodeling of Dwelling Units where no additional Dwelling Unit(s) are created and the square footage of each remodeled Dwelling Unit does not change the range of square footage in the SDC Methodology Report is fully exempt.

E. Campus Housing is fully exempt.

F. For New Development ~~which that~~ includes a mix of exempt and non-exempt forms of development, the applicable exemption(s) apply only to that portion of the New Development to which the exemption applies.

17.13.070 SDC Credits.

~~(Amended by Ordinance Nos. 172732, 172758, 173386, 174617, 181669, 187150 and 189244, effective November 7, 2018.)~~

SDC Credits:

A. The City may grant a Credit against the Parks SDC, which is otherwise assessed for New Development, for any Qualified Public Improvements constructed by or conveyed by the Applicant as part of that New Development. At the time the application for a credit is made, the New Development must be identified by a Building Permit Number. Credit will not be allowed for a Qualified Public Improvement that was conveyed more than 36 months prior to the date of the request for the Credit, unless a Development Agreement provides otherwise. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC Credit.

B. To obtain an SDC Credit, the Applicant must specifically request a Credit prior to the City's completion of the final inspection for the New Development. In the request, the Applicant must identify the improvements for which Credit is sought and explain how the improvements meet the requirements for a Qualified Public Improvement. The Applicant must also document, with credible evidence, the value

of the improvements for which Credit is sought. If, in the Administrator's opinion, the improvements are Qualified Public Improvement, and the Administrator concurs with the proposed value of the improvements, an SDC Credit can be granted, if approved as outlined below. The value of the SDC Credits under this section ~~shall will~~ be determined by the Administrator based on the cost of the Qualified Public Improvement, or the value of Real Property Interests, as follows:

1. For Real Property Interests, the value ~~shall will~~ be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction.
2. For improvements yet to be constructed, value will be based upon the anticipated cost of construction. Any such cost estimates must be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC Credit is sought. The City will give immediate credits based on estimates, but it will provide for a subsequent adjustment based on actual costs: a refund to the Applicant if actual costs are higher than estimated, and an additional SDC to be paid by the Applicant if actual costs are lower than estimated. The City will inspect all completed Qualified Public Improvement projects before agreeing to honor any credits previously negotiated. The City will limit credits to reasonable costs. Credits will be awarded only in conjunction with an application for development.
3. For improvements already constructed, value will be based on the actual cost of construction as verified by receipts submitted by the Applicant.

C. The Administrator will acknowledge receipt of the Applicant's request in writing within 21 days of when the request is submitted. The Administrator will confirm whether the application is complete or indicate additional information needed. The Administrator will provide a written explanation of the process for making the decision on the SDC Credit request.

1. The "Request for Parks SDC Credit for Qualified Public Improvement" (Form PSDC-7) and accompanying information will be sent to the Parks SDC Administration Section, who will prepare a staff report and convene the SDC Credit Review Committee. If Requests are received, the Committee will be convened quarterly. Applications not deemed complete 1 month prior to a committee meeting may not be heard until the following quarterly meeting. The Committee will be appointed by the ~~Commissioner-in-Charge~~ City Administrator, ~~after consultation with the Director~~, and include, but not be limited to, representatives of the following interests:

- a. Development Community (e.g., Metropolitan Home Builders Association). Up to two representatives.

- b. Environmental (e.g., Portland Audubon Society)
- c. Public Interest (e.g., League of Women Voters, Urban League). Up to two representatives.
- d. Neighborhood (one for each SDC Sub-Area)
- e. Park Advocate (Portland Parks Board Member)
- f. Business Community (e.g., Portland Business Alliance)

2. A representative of the ~~Commissioner-in-Charge~~[City Administrator](#) may attend and participate in the discussion but may not vote.

3. The Applicant may attend the Committee meeting to respond to questions and provide relevant testimony but may not be present during the Committee's deliberation and vote. The Administrator will present the public interest to the committee, including staff findings regarding the application. City Attorney staff may be present to respond to any legal questions. The Committee will review each proposal and the Administrator will provide a record of the Committee members present, the recommendation, along with any minority viewpoints, and minutes of the Committee's discussion, including a summary of factors considered to the Director and ~~Commissioner-in-Charge~~[City Administrator](#). If a member of the Committee has a conflict of interest related to a specific application, the member must withdraw from the deliberations and recommendations. Each neighborhood interest representative may only participate in discussions of and recommendations for applications that pertain to the SDC Sub-Area that the member does not represent.

4. The Director (for SDC credits under \$250,000) or ~~Commissioner-in-Charge~~[City Administrator](#) (for SDC credits of \$250,000 and over) will make a decision within 30 days of the SDC Credit Review Committee meeting date. If a minority viewpoint is presented along with a majority recommendation, the ~~Commissioner-in-Charge~~[City Administrator](#) and Director will meet to review jointly before issuing a decision.

5. Copies of the decision and the Committee recommendations will be shared with the applicant and members of the SDC Credit Review Committee digitally, or as a hard copy if requested. Copies of the decision and Committee recommendations will also be available in the digital City Archives, with a link on the Parks SDC Webpage.

D. If the Applicant disputes the decision to grant or deny an SDC Credit, including the amount of the Credit, the Applicant may appeal as provided in Section 17.13.120.

E. When the construction or donation of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project. For purposes of this paragraph, “subsequent phases of the original development project” means additional New Development that is approved as part of the same regulatory development approval (such as elements approved as part of the same conditional use master plan or planned unit development) or other portions of the same “site” (as defined by PCC 33.901.030) that are explicitly defined in the application for SDC credits as subsequent phases of the original development project. For multi-phased developments, the applicant must describe all subsequent phases at the time application is made for SDC credits and must document to the satisfaction of the SDC Administrator that the subsequent phases are integrally connected with the original development rather than independent projects.

F. Parks and Recreation SDC Credits are void and of no value if not redeemed with the City for payment of a Parks and Recreation SDC within 5 years of the date of issuance.

G. Notwithstanding any other provisions of this section, with respect to conveyances of Real Property Interests specified in Development Agreements adopted before June 21, 2000, the value of the credit will be 25 percent of the appraised value of the Real Property Interest.

17.13.080 Alternative Calculation for SDC Rate.

~~(Amended by Ordinances 181669 and 189244, effective November 7, 2018.)~~

A. Pursuant to this section, an Applicant may request an alternative Parks and Recreation SDC rate calculation if the Applicant believes that the Applicant’s SDC should be lower than that calculated by the City.

B. Alternative SDC Rate Request

1. The Applicant’s alternative SDC rate calculation request must provide the Applicant’s reasons that the City’s occupancy assumptions for the class of structures that includes the New Development are inaccurate because:

a. For residential development, the number of persons per Dwelling Unit is or will be fewer than the number of persons per Dwelling Unit established in the SDC Methodology Report; or

b. For non-residential development, the number of resident equivalents per 1,000 square feet is or will be fewer than the number of resident equivalents per 1,000 square feet established in the SDC Methodology Report.

2. Alternative SDC rate calculations must be based on analysis of occupancy of classes of structures, not on the intended occupancy of a particular New Development.

3. The City will not entertain an alternative SDC rate calculation request filed after the City has completed the final inspection for the New Development. Upon the timely request for an alternative SDC rate calculation, the Administrator will review the Applicant's calculations and supporting evidence and make a determination within 21 days of submittal.

4. The Applicant must provide complete and detailed documentation, including verifiable dwelling occupancy data, analyzed and certified by a suitable and competent professional. The Applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, demographics, growth projections, and techniques of analysis. The request must demonstrate that the rate established in the SDC Methodology Report does not accurately reflect the New Development's impact on the City's capital improvements.

5. The Administrator ~~shall~~will apply the Applicant's alternative SDC rate calculation if, in the Administrator's opinion:

a. The evidence and assumptions underlying the alternative SDC rate calculation are reasonable, correct and credible and were gathered and analyzed in compliance with generally accepted principles and methodologies consistent with this Section;

b. The proposed alternative SDC rate better or more realistically reflects the actual impact of the New Development than the rate set forth in the SDC Methodology Report.

6. The Administrator will respond with a written decision to the Applicant within 21 days of receipt of the Alternative SDC rate calculation request by email or certified mail and either approve or deny the request.

17.13.090 Payment.

~~(Amended by Ordinances 173565, 181669, 183447, 189244 and 189413, effective March 6, 2019.)~~

A. The Parks and Recreation SDC required by this Chapter to be paid is due upon issuance of the Building Permit. However, in lieu of payment of the full Parks and Recreation SDC, the Applicant may elect to pay the SDC in installments as is authorized by ORS 223.208 and Chapter 17.14 of Portland City~~this~~ Code. If the Applicant elects to pay the SDC in installments, a lien will be placed against the property that is subject to the SDC Deferral or Installment Agreement entered into by the Applicant and the City on a form provided by the City, and ~~which that~~ may provide for the deferral of payments as set forth in Chapter 17.14 of Portland City~~this~~

Code. In any event, the Applicant ~~shall~~must either pay the SDC in full or enter into an SDC Deferral or Installment Agreement as provided in Portland City~~this~~ Code, before the City will issue any Building Permits.

B. Upon written request of Portland Parks & Recreation, the the City Administrator or their designee who carries out the work of the revenue service and program~~Revenue Division~~ is authorized to cancel assessments of SDCs, without further Council action, where the New Development approved by the Building Permit is not constructed and the Building Permit is cancelled.

C. For property that has been subject to a cancellation of assessment of SDCs, a new installment payment contract ~~shall~~will be subject to the code provisions applicable to SDCs and installment payment contracts on file on the date the new contract is received by the City.

17.13.100 Refunds.

~~(Amended by Ordinances 181669 and 189244, effective November 7, 2018.)~~

Refunds may be given by the Administrator in the following instances:

A. If the Administrator determines that there was a clerical error in the calculation of the SDC.

B. If the City has not expended SDC revenues within 10 years of receipt.

C. Upon request by the Applicant, when a building permit application is cancelled.

17.13.110 Dedicated Account and Appropriate Use of Account.

~~(Amended by Ordinances 181669, 189244 and 189687, effective October 4, 2019.)~~

A. There is created a dedicated account entitled the "Parks and Recreation SDC Account." All monies derived from the Parks and Recreation SDC ~~shall~~must be placed in the Parks and Recreation SDC Account. Funds in the Parks and Recreation SDC Account ~~shall~~must be used solely for the purpose of providing capacity-increasing capital improvements as identified in the adopted Parks and Recreation SDC-CIP as it currently exists or as ~~is hereinafter~~ amended, and eligible administrative costs. In this regard, SDC revenues may be used for purposes ~~which~~ that include, but are not limited to:

1. design and construction plan preparation;
2. permitting;
3. land and materials acquisition, including any costs of acquisition, stabilization, or condemnation;

4. construction of parks and recreation capital improvements;
5. design and construction of new drainage facilities or streets required by the construction of parks and recreation capital improvements and structures;
6. relocating utilities required by the construction of improvements;
7. landscaping;
8. construction management and inspection;
9. surveying, soils and material testing;
10. acquisition of capital equipment that is, or is an intrinsic part of, a facility;
11. demolition that is part of the construction of any of the improvements on this list;
12. payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide money to construct or acquire parks and recreation facilities; and
13. direct costs of complying with the provisions of ORS 223.297 to 223.314, including the consulting, legal, and administrative costs required for developing and updating the system development charges methodologies and capital improvement plan; and the costs of collecting and accounting for system development charges expenditures.

B. Money on deposit in the Parks and Recreation SDC Account ~~shall~~may not be used for:

1. any expenditure that would be classified as a maintenance or repair expense; or
2. costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or
3. costs associated with acquisition or maintenance of rolling stock

C. The City may prioritize SDC-funded projects and may spend SDC revenues for growth-related projects anywhere in the City. However, the City may not spend, or allocate as a placeholder in the Parks and Recreation SDC Account for future spending, less SDC revenues for local-access parks within any SDC service Sub-Area than the total amount of SDC revenues collected for local-access parks within that Sub-Area.

D. The proportional breakdown of the Local Access portion to the Non-Local Access portion of the SDC fee is 43 percent to 57 percent.

17.13.120 Challenges and Appeals.

~~(Amended by Ordinances 174617 and 189244, effective November 7, 2018.)~~

A. Any person may challenge the expenditure of SDC revenues by filing a challenge to the expenditure with the Administrator within two years after the date of the disputed SDC revenue expenditure.

B. The Applicant may challenge a decision on an SDC Credit as applied under Section 17.13.070 by providing a written notice of appeal to the Administrator no more than 14 calendar days after the decision is posted online. The Applicant may challenge a decision on an SDC Exemption as applied under Section 17.13.060 or on an SDC Alternative Rate as applied under Section 17.13.080 by providing a written notice of appeal to the Administrator no more than 14 calendar days after the decision is provided to the Applicant. Appeals of decisions of the Administrator will be reviewed by the Director. Appeals of decisions of the Director will be reviewed by the ~~Commissioner-in-Charge~~City Administrator. An appeal of a ~~Commissioner's~~City Administrator's decision, including but not limited to the ~~Commissioner's~~City Administrator's review of the Director's decision, will be heard by the City Council. Appeals of decisions of the City Council will be reviewable solely under ORS 34.010 through 34.100.

C. Except where a different time for an Administrator's decision is provided in this Chapter, all Administrator decisions ~~shall~~will be in writing and ~~shall~~will be sent to the Applicant within 21 days of Administrator receipt of an Application or other Applicant request for an Administrator determination. Except where a different time for an appeal is provided in this Chapter, all appeals ~~shall~~will be in writing and ~~shall~~will be submitted within 14 calendar days after the decision is issued.

D. If an Applicant files an appeal under Subsection 17.13.120 B., the City ~~shall~~will withhold all Permits and other approvals applicable to the Applicant's property of the New Development pending resolution of all appeals under this Chapter unless the SDC is paid in full or the Applicant provides, for the pendency of the appeal, a financial guarantee or security for the charge in a form acceptable to the City Attorney.

17.13.130 City Review of SDC.

~~(Amended by Ordinances 181669 and 189244, effective November 7, 2018.)~~

A. No later than every 10 years as measured from initial enactment, the City ~~shall~~must undertake a review to determine that sufficient money will be available to help fund the Parks and Recreation SDC-CIP--identified capacity-increasing facilities; ~~to~~ determine whether the adopted SDC rate keeps pace with inflation, to determine whether the Parks and Recreation SDC-CIP should be modified, and to ensure that such facilities will not be over-funded by the SDC receipts.

B. In the event that, during the review referred to above, it is determined an adjustment to the SDC is necessary and consistent with state law, the City Council may propose and adopt appropriately adjusted SDCs.

C. The City Council may from time to time amend or adopt a new SDC Methodology Report by ordinance.

17.13.140 Time Limit on Expenditure of SDCs.

~~(Amended by Ordinance 189244, effective November 7, 2018.)~~

The City ~~shall~~must expend SDC revenues within 10 years of receipt, based on the priorities in the Parks and Recreation SDC-CIP list.

17.13.150 Implementing Regulations.

~~(Amended by Ordinances 187150 and 189244, effective November 7, 2018.)~~

The ~~Director~~City Administrator may adopt administrative rules as authorized by Charter and amend by Administrative Rule regulations and procedures to implement the provisions of this chapter. Any Administrative Rule adopted under this Section shall be filed with the Auditor for inclusion in the Portland Policy Documents, in accordance with Chapter 1.07 of this Code. The Administrator may develop forms and procedures as needed to implement this chapter and the Administrative Rules.

17.13.160 Amendment of the Parks and Recreation SDC-CIP List.

~~(Amended by Ordinances 181669 and 189244, effective November 7, 2018.)~~

The City ~~Council~~Administrator may amend the Parks and Recreation SDC-CIP list as set forth in the SDC Methodology Report, from time to time to add or remove projects as the City deems appropriate. The City Administrator may, at any time, change the description of the scope, and timing, for projects included in the Parks and Recreation SDC-CIP list. The ~~Commissioner in Charge~~City Administrator may change project budgets. Any amendment of the SDC-CIP list that increases an SDC rate may be adopted only by the Council after a public hearing as provided by ORS 223.309(2). An updated SDC-CIP list incorporating changes made under this Section will be posted on the Parks and Recreation website.

17.13.170 Severability.

The provisions of this Chapter are severable, ~~and it is the intention to confer the whole or any part of the powers herein provided for.~~ If any clause, section or provision of this Chapter ~~shall be~~is declared unconstitutional or invalid for any reason or cause, the remaining portion of this Chapter ~~shall~~will be in full force and effect and be valid as if such invalid portion ~~thereof~~ had not been incorporated ~~herein~~ this Chapter. In the event a definition is held to be invalid or is severed, the defined word or term will be deemed to have the meaning given to that word or term under

Oregon law if Oregon law contains such a definition. If there is no established definition of the word or term under Oregon law, the word or term will have its ordinary dictionary meaning. It is hereby declared to be theThe Council's express legislative intent is that this Chapter would have been adopted had such an unconstitutional or otherwise invalid provision not been included herein it.

Chapter 17.14 Financing of, and Exemptions from, Systems Development Charges

~~(Chapter added by Ordinance 145785; amended by Ordinances 166334 and 189050, effective August 1, 2018.)~~

17.14.010 Purpose.

~~(Amended by Ordinances 183447 and 189050, effective August 1, 2018.)~~

The purposes of this Chapter are to authorize financing agreements that provide for payments deferrals and installment payments of City system development charges and to provide exemptions from such charges. This Chapter fulfills the following mandates:

A. The requirement of Chapter 722 Oregon Laws of 1977 (ORS 223.207 and 223.208) that the rights and duties accorded the City and property owners by the laws relating to assessments and financing of local improvement districts ~~shall~~ also apply to assessments and financing of those charges imposed by the City that are defined by Subsections 1 (a) and (b) of Section 2, Chapter 722 Oregon Laws of 1977 (ORS 223.208 (1) (a) and (b)); and

B. The decisions of City Council to establish certain exemptions from the assessment of system development charges.

17.14.020 Definitions.

~~(Amended by Ordinance 183447, effective July 1, 2010.)~~

As used in this Chapter, the following terms ~~shall~~ are defined as follows:

A. “System development charge” means a charge imposed pursuant to Chapters 17.13, 17.15, 17.36 and 21.16 of Portland City ~~this~~ Code.

B. “Owner or property owner” means all persons who appear on the County property tax record for the property subject to the system development charge.

C. “Responsible Bureau” means the City agency, office, organization, division or bureau ~~which~~ that is responsible for calculating and maintaining records regarding system development charges.

17.14.030 Application, Consent to Assessment.

~~(Amended by Ordinance 183447, effective July 1, 2010.)~~

Any owner of real property subject to a systems development charge may apply to defer the payment of system development charges, or to pay the charge in installments in a manner similar to that provided for local improvement district assessments. As a condition to such application, the owner ~~shall~~must waive any right to challenge the validity or applicability of the charge and ~~must~~shall consent to the assessment of the property subject to the charge.

17.14.040 Terms and Conditions of Deferred Payment and Installment Payment Agreements.

~~(Amended by Ordinances 183447, 185326, 189506 and 191243, effective April 19, 2023.)~~

A. Deferred Payments.

1. The City ~~shall~~may authorize the deferred payment of system development charges as follows for periods not to exceed:
 - a. 6 months for a project valued less than or equal to \$750,000;
 - b. 9 months for a project valued greater than \$750,000 and less than or equal to \$7 million;
 - c. 12 months for a project valued greater than \$7 million; and
 - d. 24 months for a project that includes new residential units, regardless of project value, provided a completed building permit application has been received by June 30, 2025, and an SDC deferral application that complies with Section 17.14.030 of Portland Citythis Code must be received between April 6, 2023, and August 15, 2025.
2. For purposes of this Section, the City ~~shall~~will rely on the value assigned to projects by the City when calculating building permit fees.
3. With the exception of a deferral approved under Subsection A.1.d., of this Section, for which the City will charge no interest during the deferral period, the City ~~shall~~will charge simple interest during the deferral period at the interim interest rate established by ordinance pursuant to Chapter 17.12 of Portland Citythis Code.
4. The City ~~shall~~will collect fees and charges for the processing and administration of deferred payment agreements as set by general ordinance.

B. Installment Payment Agreements. Payment of principal and interest ~~must~~shall be made in installments as set forth in the signed installment payment contract.

17.14.050 Assessment.

~~(Amended by Ordinance 189413, effective March 6, 2019.)~~

The ~~Revenue Division~~City Administrator ~~shall~~will report to the Council from time to time the contracts to pay system development charges pursuant to this Chapter. If the Council finds that the contracts are in order and that subject property has been permitted to connect to City facilities and has ~~thereby~~ benefited from that connection, it ~~shall~~will approve the contracts by ordinance directing the billing for the charges upon the land benefited plus a financing fee. The financing fee ~~shall~~will be calculated as set forth in ~~PCC Chapter~~ 17.12 of Portland City Code, Assessments. All such assessments may be combined in one assessment roll and ~~shall~~will be entered upon the Docket of City Liens and collected in the same manner as other local improvement assessments.

17.14.060 Cancellation.

~~(Amended by Ordinances 183447 and 189413, effective March 6, 2019.)~~

A. Upon written request of the responsible City bureau, the ~~Revenue Division is authorized to~~City Administrator may cancel assessments of system development charges, without further Council action, where the property is not physically connected to the public improvement of where the new development approved by the building permit is not constructed and the building permit is cancelled. The ~~City Administrator~~Revenue Division ~~shall~~will establish administrative guidelines and fees or charges relating to the cancellation of assessments. The ~~revenue service and program of the City Administrator~~Revenue Division ~~shall~~will maintain on file for public inspection a current copy of administrative guidelines and fees or charges.

B. For property ~~which~~that has been subject to a cancellation of assessment of system development charges, a new installment payment contract ~~shall~~will be subject to the eCode provisions applicable to system development charges and installment payment contracts on file on the date the new contract is received by the City.

17.14.070 System Development Charge Exemptions.

~~(Added by Ordinance 189050; amended by Ordinances 189323, 190381, 191202 and 191736, effective July 1, 2024.)~~

A. Affordable housing developments are exempt from all system development charges as provided by Section 30.01.095 of Portland City~~this~~ Code.

B. Certain developments and uses are exempt from parks and recreation system development charges as provided by Section 17.13.060 of Portland City~~this~~ Code.

C. Certain developments and uses are exempt from transportation system development charges as provided by Section 17.15.050 of [Portland Citythis](#) Code.

D. Temporary uses are exempt from sanitary sewer system development charges as provided by Section 17.36.040 of [Portland Citythis](#) Code.

E. Certain developments and uses are exempt from water service system development charges as provided by Section 21.16.170 of [Portland Citythis](#) Code.

F. An accessory dwelling unit, as that term is defined in Chapter 33.910 of [Portland Citythis](#) Code, is exempt from all system development charges under the following conditions:

1. The building permit application for the accessory dwelling unit must have an intake date of August 1, 2018 or later.

2. Prior to issuance of a building permit for the accessory dwelling unit, the applicant must submit a recorded covenant on a form provided by the [revenue service and program of the City Administrator](#)~~Revenue Division of the Bureau of Revenue and Financial Services~~. The covenant will prohibit the use of the accessory dwelling unit or any other structure on the property as an accessory short-term rental, as that term is defined in Chapter 33.207 of [Portland Citythis](#) Code, for a period of 10 years from the date of permit final inspection. The covenant must be recorded in the deed records for the property before the City will issue the building permit.

3. The ~~Revenue Division~~[City Administrator](#) will enforce the requirements of this Section and may:

a. Adopt, amend, and repeal administrative rules, establish procedures, and prepare forms for the implementation, administration, and enforcement thereof;

b. In the event of a violation, use any reasonable means to collect debt, including but not limited to private collection agencies, liens, or lawsuits;

~~c. Delegate functions under this Section as deemed appropriate by the Revenue Division;~~

~~dc.~~ Impose a civil penalty of up to \$500 for failure to pay an application fee within 60 days of the approval of an SDC fee waiver;

~~de.~~ Impose a civil penalty of up to \$500 per violation for failure to provide requested information~~to the Division~~; and

~~ef.~~ Waive or reduce for good cause any civil penalty assessed under this Section.

- 4.** If an applicant for an exemption under this section or a successor-in-interest thereof violates the covenant for an accessory dwelling unit or any requirement of this section, or if the covenant is terminated according to its terms:
- a.** The exemption will be terminated and all previously exempt portions of system development charges will become immediately due and payable by the then-owner of the property. The amount owing will be 150 percent of the rates in effect at the time the violation is identified or the covenant is terminated, whichever is later.
 - b.** For the purpose of applying any previous use credits, SDC Bureaus will use the timeframe of the ADU building permit intake date. If credits are applicable, SDC Bureaus will apply credits using the rates in effect at the time the violation is identified, or the covenant terminated, whichever is later.
 - c.** A processing fee of \$400 per waiver application ~~shall~~will apply from August 1, 2018, through June 30, 2019. Thereafter, the ~~Revenue Division Director~~City Administrator ~~shall~~will publish a fee schedule based on cost recovery.
 - d.** The City may collect reinstated system development charges, processing fees, carrying charges, and the actual costs of collections by recording a property lien pursuant to Title 22 of Portland City~~this~~ Code.
- G.** Mass, outdoor and short term shelters are exempt from all system development charges as provided by Portland City Code Section 30.01.096.
- H.** Occupied recreational vehicles as allowed by Portland City Code Sections 29.50.050 A.2. and A.5. are exempt from all system development charges.
- I.** Office-to-residential conversion projects are exempt from all system development charges under the following conditions:
- 1.** The applicant applies before July 1, 2027, for a permit to change the occupancy of a building to Oregon Structural Specialty Code (OSSC) occupancy group R-2 (Residential) for the purpose of establishing residential units, and issuance requires a full seismic upgrade to the building, pursuant to Section 24.85.040 or Subsection 24.85.065 B. of Portland City~~this~~ Code, if applicable.
 - 2.** The building was not previously retrofitted under a finalized permit to meet or exceed the Life Safety standard of the 1993 or later editions of the OSSC, ASCE 41, FEMA-178 or ASCE 31 where A_v and $A_a = 0.3$ or higher was used.

3. The building is on a lot any portion of which is located within an area rated with an opportunity score of “5” according to the Opportunity Map published by the City.

4. Within 30 days of issuance by the Portland Permitting & Development of a Final Certificate of Occupancy, the applicant provides to the Responsible Bureau all of the following:

a. Documentation from the Portland Permitting & Development attesting that permit applications have been reviewed that collectively will result in:

(1) The building occupancy changing to OSSC occupancy group R-2; and

(2) A full seismic upgrade that meets or exceeds the Seismic Improvement Standards specified in Section 24.85.040 or Subsection 24.85.065 B. of [Portland Citythis](#) Code, if applicable, or documentation demonstrating that the seismic upgrade work has been completed.

b. Documentation reflecting the total costs incurred to complete the required seismic upgrades.

5. The applicant submits a recorded covenant on a form provided by the City.

a. The covenant must restrict to residential occupancy for a period of 10 years from the date of permit final inspection those portions of the building indicated as residential units on the permit application.

b. The covenant must be recorded in the deed records for the property before the City will issue the building permit.

c. The [Revenue Division of the Bureau of Revenue and Financial Services-City Administrator](#) may enforce the requirements of this Subsection 5. in the same manner as for system development charge exemptions for accessory dwelling units under Subsection 17.14.070 F.3. of [Portland Citythis](#) Code. Initially, a processing fee of \$600 per application will apply. Thereafter, the [Revenue Division DirectorCity Administrator](#) will publish a fee schedule based on cost recovery.

d. Violations and terminations of a covenant will be addressed in the same manner as for system development charge exemptions for accessory dwelling units under Subsection 17.14.070 F.4. of [Portland Citythis](#) Code.

6. This exemption applies only to the building undergoing seismic upgrades in accordance with this Subsection and does not apply to other buildings on the same lot that do not individually meet such requirements.

7. The City will calculate exemption amounts in the manner authorized for calculating system development charges for properties with residential units. The exemption will apply to all residential units, including on-site manager units and shared space, including but not limited to restrooms, community rooms, kitchens, and laundry facilities.

8. The total exemption amount for all system development charges for a building is subject to adjustment by the City and may not exceed the actual costs incurred to complete the required seismic retrofit or \$3 million, whichever is less.

Chapter 17.15 Transportation System Development Charge

~~(Chapter added by Ordinance 171301, effective July 18, 1997.)~~

17.15.010 Scope and Purposes.

~~(Amended by Ordinances 181322, 182652, 184756 and 188619, effective January 1, 2018.)~~

A. New development within ~~the City of~~ Portland contributes to the need for capacity increases for roads, multi-modal transportation and related transportation improvements, to enable new development to take advantage of transit systems and, therefore, new development should contribute to the funding for such capacity increasing improvements. This SDC will fund a portion of the needed capacity increases for arterial, boulevard and collector roads, multi-modal transportation improvements and associated bus and transit improvements, sidewalks, bicycle and pedestrian facilities, street lighting and stormwater drainage and treatment facilities, and other public facilities specified in the City's ~~of Portland~~ Transportation System Plan.

B. ORS 223.297 through 223.314 grant the City authority to impose a SDC to equitably spread the costs of essential capacity increasing capital improvements to new development.

C. The SDC is incurred upon application to develop property for a specific use or at a specific density. The decision regarding uses, densities, and/or intensities causes direct and proportional changes in the amount of the incurred charge. This SDC is separate from other fees provided by law or imposed as a condition of development. It is a fee for service because it contemplates a development's receipt of transportation services based upon the nature of that development.

D. The SDC imposed by this Chapter is not a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or legislation implementing that section. This Chapter does not shift, transfer or convert a government product or service, wholly or partially paid for by ad valorem property taxes, to be paid for by a fee, assessment or other charge, within the meaning of Section 11g, Article XI of the Oregon Constitution.

E. The funding provided by this Chapter constitutes a mandatory collection method based upon the guidelines set forth in ORS 223.297 through 223.314 to assure the construction of capacity increasing improvements to arterial, boulevard and collector roads as well as to bicycle, pedestrian and transit facilities as contemplated in the Transportation Element of the City's Comprehensive Plan, [the City's of Portland](#) Transportation System Plan, and the list of projects, referred to as the TSDC Project List, to be funded with money collected under this Chapter. The TSDC Project List is not to be confused with the City's of Portland Capital Improvement Program.

F. This Chapter is intended only to be a financing mechanism for the capacity increases needed for major City traffic and collector streets, multi-modal improvements associated with new development and capacity increasing transportation improvements and does not represent a means to fund maintenance of existing roads.

G. The City ~~hereby~~ adopts the methodology report and rate study entitled Transportation System Development Charge Update, ~~hereinafter~~ referred to as "City Rate Study," as well as the North Macadam Overlay Rate Study and the Innovation Quadrant Overlay Project Report and incorporates ~~herein~~ by this reference the assumptions, conclusions and findings in the report ~~which that~~ refer to the determination of anticipated costs of capital improvements required to accommodate growth.

H. The Transportation SDC provided for in this Chapter is designed to help finance the Transportation System facilities listed in the TSDC Project List as a means of ensuring that adequate capacity is maintained in the City's Transportation System. However, the City specifically recognizes that the entire project list will likely not receive full funding from the proceeds of this SDC, and it is unlikely that every one of the projects listed will be constructed. The City recognizes that the projects in the TSDC Project List are not comprehensive, and that construction of other projects not included on the TSDC Project List may also advance the policy objective of maintaining capacity in the City's Transportation System.

I. In conjunction with the Transportation System capacity objectives of this Chapter, the City places a high priority on the development of affordable housing. The development of affordable housing promotes the public purpose of providing quality housing options for families and individuals earning 60 percent or less of the Area Median Income. Providing an exemption from the Transportation SDC will make it possible to develop more and better affordable housing within the metropolitan area.

17.15.020 Definitions.

~~(Amended by Ordinances 171698, 172677, 173121, 175717, 176782, 181322, 182389, 182652, 184756, 185459, 188619, 188757 and 188758, effective January 3, 2018.)~~

A. “Accessway” means a walkway that provides pedestrian and/or bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees and lighting. Where Accessways cross driveways, they may be raised, paved or marked in a manner ~~that~~which provides convenient access for pedestrians.

B. “SDC Administrator” means that person as appointed by the City Administrator~~Director of Transportation~~ to manage and implement this SDC program.

C. “Alternative System Development Charge” means any SDC established pursuant to Section 17.15.070 of this Chapter.

D. “Applicant” means the person who applies for a Building Permit.

E. “Application” means the written request by an Applicant for a Building Permit.

F. “Building Official” means that person, or their designee, certified by the State and designated as such to administer the State Building Codes for the City.

G. “Building Permit” means that permit, including development and zoning permits, issued by the City Building Official pursuant to the State of Oregon Structural Specialty Code or as amended, and the State of Oregon Residential Specialty Code or as amended. In addition, “Building Permit” shall mean the Manufactured Home Installation Permit issued by the City Building Official, relating to the placement of manufactured homes in the City.

H. “City” means City of Portland, Oregon.

I. “City Rate Study” means the report entitled Transportation System Development Charge Update, dated June 2017 and adopted as Exhibit A to Ordinance No. 188619.

J. “Comprehensive Plan” means the current, adopted Comprehensive Plan of the ~~City of Portland~~.

K. “Condition of Development Approval” is a Bureau of Transportation requirement imposed on an Applicant by a city land use or limited land use decision, site plan approval or building permit either by operation of law, including but not limited to [the Portland](#) City Code or Rule or regulation adopted ~~there~~ under [it](#), or a condition of approval.

L. “Construction Cost Index” means the 20-City Construction Cost Index published by the Engineering News Record.

M. “Credit” means the amount by which an Applicant may be able to reduce the SDC fee as provided in this Chapter.

N. “Developer” means the person constructing a Qualified Public Improvement or eligible capital improvement prior to the construction of the New Development.

O. “Development” means all improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage or activities that have the effect of generating additional PM Peak Hour Trips. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land.

P. “Director of Transportation” means that person or their designee who is responsible for managing the Bureau of Transportation, [subject to the approval of the City Administrator](#).

Q. “Finance Director” means that person or their designee who is responsible for managing the Finance Department for the City, [subject to the approval of the City Administrator of Portland](#).

R. “Innovation Quadrant Overlay Project Report” means the report entitled Innovation Quadrant Transportation System Development Charge Overlay Project Report, dated May 2011 and adopted as Exhibit A to Ordinance. No. 184756, and as updated in Exhibit A to Ordinance No. 188758.

S. “Innovation Quadrant Transportation System Development Charge TSDC Overlay” means a transportation system development charge (TSDC) zone over the Innovation Quadrant area, as it presently exists or may be amended in the future, in which additional SDCs are collected and expended on capacity-increasing projects to serve future users within the Innovation Quadrant.

T. “Institutional Development” means development associated with a medical or educational institution and associated uses, on a site of at least five acres in area. Medical institutional campuses include medical centers and hospitals. Educational institutional campuses include universities, colleges, high schools, and other similar institutions offering course of study leading to a high school diploma or a degree certified by a recognized accreditation body. Associated

uses on institutional campuses may include some commercial or light industrial uses, residential and other uses.

U. “ITE Manual” means the current edition of that manual entitled “An Institute of Transportation Engineers Informational Report - Trip Generation.” A copy of the ITE Manual shall will be kept on file with the Bureau of Transportation.

V. “Methodology” means the narrative, formulas and charts that serve as the framework for determining the system development charges, as set forth in the City Rate Study.

W. “Multi-Modal” means vehicular, transit, bicycle, pedestrian and wheel chair transportation.

X. “New Development” means Development on any site thatwhich increases overall Trip generation from the site according to Table 4-3 of The City Rate Study or pursuant to Section 17.15.070 of this Chapter. Except as provided under Section 17.15.050, New Development for purposes of this Chapter includes remodeling to the extent that it generates additional Trips.

Y. “North Macadam Overlay Rate Study” means the report entitled North Macadam Transportation System Development Charge Overlay Rate Study, dated January 2009 and adopted as Exhibit A to Ordinance 182652, and as updated in Exhibit A to Ordinance No. 188757.

Z. “North Macadam Transportation System Development Charge TSDC Overlay” means a transportation system development charge (TSDC) zone over the entire North Macadam urban renewal area (URA), as it presently exists or may be amended in the future, in which additional SDCs are collected and expended on capacity-increasing projects to serve future users within North Macadam.

AA. “Over-capacity” means that portion of an improvement that is built larger or with greater capacity than is necessary to serve the Applicant’s New Development or mitigate for transportation system impacts attributable to the Applicant’s New Development. There is a rebuttable presumption that improvements built to the City’s minimum standards are required to serve the Applicant’s New Development and to mitigate for transportation system impacts attributable to the Applicant’s New Development.

BB. “Pedestrian Connection” means a continuous, unobstructed, reasonably direct route between two points that is intended and suitable for pedestrian use. Pedestrian connections include but are not limited to sidewalks, walkways, stairways and pedestrian bridges. On developed parcels, pedestrian connections are generally hard surfaced. In parks and natural areas, pedestrian connections may be soft-surfaced pathways. On undeveloped parcels and parcels intended for redevelopment, pedestrian connections may also include rights-of-way or easements for future pedestrian improvements.

CC. “Permit” means a Building Permit.

DD. “Person Trip” means a Trip made by a person or persons to and from a Development during the PM Peak Hour.

EE. “PM Peak Hour” means the 60-minute time period of highest Trip generation during the afternoon period between 4 p.m. and 6 p.m.

FF. “Port Development” means a planned development owned or operated by a unit of government involving a facility used for cargo freight or passenger transportation by air, water, rail or public mass transit, including accessory uses. Uses that are accessory to Port Development are those ~~that~~which send or receive cargo freight or are related to passenger movement or service.

GG. “Previous use” means the most recent permitted use conducted at a particular property. Where the site was used simultaneously for several different uses (mixed use), then, for purposes of this Chapter, all of the specific use categories ~~shall~~will be considered. Where one use of the site accounted for 70 percent or more of the total area used, then that dominant use will be deemed to be the sole previous use of the site. Where the previous use is composed of a primary use with one or more ancillary uses that support the primary use and are owned and operated in common, that primary use ~~will~~shall be deemed to be the sole use of the property for purposes of this Chapter.

HH. “Proposed use” means the use proposed by the Applicant for a New Development. Where the Applicant proposes several different uses (mixed use) for the New Development then, for purposes of this Chapter, all of the specific use categories ~~will~~shall be considered. Where the proposed use is composed of a primary use with one or more ancillary uses that support the primary proposed use and are owned and operated in common, that primary use ~~will~~shall be deemed to be the sole proposed use of the property for purposes of this chapter.

II. “Qualified Public Improvement” means any transportation system capital improvement or conveyance of an interest in real property that increases the capacity of the City’s Transportation System and is:

1. Required by the Bureau of Transportation as a condition of the Development approval, and
2. Listed on the City’s TSDC Project List, and
 - a. Not located on or contiguous to the Applicant’s New Development site, or
 - b. Located on or contiguous to the Applicant’s New Development site, and in the opinion of the SDC Administrator is an Over-Capacity improvement or conveyance.

JJ. “Remodel” or “Remodeling” means to alter, expand or replace an existing structure.

KK. “Right-of-Way” means that portion of land that is dedicated for public use including use for pedestrians, bicycles, vehicles and transit, utility placement and signage.

LL. “Roads” means streets, roads and highways.

MM. “Temporary Use” means a construction trailer or other non-permanent structure.

NN. “Transportation SDC Capital Improvement Plan,” also called TSDC Project List, means the City program set forth in the City Rate Study that identifies all of the major transportation system and facilities capacity, safety, reconstruction, bicycle, pedestrian, transit and bridge improvements projected to be necessary to accommodate existing and anticipated transportation system demands within the next 10 years, and within the next 20 years as described in the North Macadam Overlay Rate Study and Innovation Quadrant Overlay Project Report.

OO. “Transportation System Development Charge,” or “SDC,” refers to the fee to be paid under this Chapter.

PP. “Transportation SDC Rate Schedule” refers to the listing of fees for development types, as adopted in Ordinance No. 188619 and, if applicable, Ordinance Nos. 182652 and 184756 for the North Macadam and Innovation Quadrant TSDC Overlay areas, respectively.

QQ. “Transportation System Plan,” or “TSP,” means the current, adopted 20-year plan for transportation improvements in the City.

RR. “Trip” means Person Trip.

SS. “Vehicle” means a motorcycle, automobile, truck, boat or recreational vehicle, but does not include transit, bicycles and motorized wheelchairs for the disabled.

TT. “Vehicular” means a reference to a vehicle.

UU. “Walkway” means an area intended and suitable for use by pedestrians, that meets standards of the American with Disabilities Act, located in public right-of-way.

17.15.030 Rules of Construction.

~~(Amended by Ordinance 188619, effective January 1, 2018.)~~

For the purposes of administration and enforcement of this Chapter, unless otherwise stated in this Chapter, the following rules of construction ~~shall~~ apply:

A. In case of any difference of meaning or implication between the text of this Chapter and any caption, illustration, summary table, or illustrative table, the text ~~will~~shall control.

B. The word “shall” is always mandatory and not discretionary; the word “may” is permissive.

C. Words used in the present tense ~~shall~~ include the future; and words used in the singular number ~~shall~~ include the plural and the plural the singular, unless the context clearly indicates the contrary.

D. The phrase “used for” includes “arranged for,” “designed for,” “maintained for,” and “occupied for.”

E. Where a regulation involves two or more connected items, conditions, provisions, or events:

1. “And” indicates that all the connected terms, conditions, provisions or events ~~shall~~ apply;

2. “Or” indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

F. The words “include” and “includes” ~~shall do~~ not limit a term to the specific example, but are intended to extend the term’s meaning to all other instances or circumstances of like kind or character.

17.15.040 Application.

~~(Amended by Ordinances 181322, 182652, 184756, 185195, 185459, 187210 and 188619, effective January 1, 2018.)~~

This Chapter applies to all New Development throughout ~~the City of~~ Portland. The amount of the Transportation SDC ~~will~~shall be calculated according to this section. For any New Development within the North Macadam Overlay Rate Study boundaries, the transportation SDC ~~will~~shall be the sum of two calculations, the first based upon the City Rate Study and the second based upon the North Macadam Overlay Rate Study. For any New Development within the Innovation Quadrant area boundaries, the transportation SDC ~~will~~shall be the sum of two calculations, the first based upon the City Rate Study and the second based upon the Innovation Quadrant Overlay Project Report.

A. New Development.

1. Except as otherwise provided in this Chapter, a Transportation SDC ~~will~~shall be imposed upon all Applications for New Development.

2. The Applicant ~~shall~~must, at the time of Application, provide the SDC Administrator with the information requested on an SDC application form regarding the previous and proposed use(s) of the property, including the following:

- a. A description of each of the previous and proposed uses for the property for which the Permit is being sought--with sufficient detail to enable the City to calculate Trip generation for the entire property under the previous use and for the proposed use(s) of the New Development.
- b. For residential uses--the number of residential dwellings, including type, e.g., single family or multi family.
- c. For commercial uses--the square footage (or other unit of measure, as applicable) for each type of commercial use, e.g., office, retail, etc.

3. Except as otherwise provided in this Chapter, the amount of the SDC due ~~will~~shall be determined by estimating the Trip generation of the previous use(s) on the property and the Trip generation for all of the proposed use(s) and then calculating the total SDC for the previous use(s) and the proposed uses(s) as provided in the Transportation SDC Rate Schedule.

- a. If the Person Trips attributable to the proposed use of the New Development are within 15 percent \pm of the Person Trips attributable to the total previous use of the property and do not increase or decrease Person Trips by more than 25 Person Trips, the Applicant is not required to pay any SDC and is not eligible for any SDC reimbursement or credit.
- b. If the Person Trips attributable to the proposed use of the New Development are more than 115 percent of the Person Trips attributable to the total previous use, the Applicant ~~shall~~must pay the difference between the SDC attributable to the proposed use and the SDC attributable to the total previous use.
- c. If the Person Trips attributable to the proposed New Development are less than 85 percent of the Person Trips attributable to the total previous use(s), and the Development had previously paid a Transportation SDC, then the Applicant ~~shall~~may be eligible for an SDC reimbursement under Section 17.15.060.

4. In the event an identified use does not have a basis for Trip determination stated in the City Rate Study, the SDC Administrator ~~will~~shall identify the land use or uses that has/have a Trip generation rate most similar to the use(s) in question and apply the Trips generation rate most similar to the proposed use or uses.

5. Notwithstanding any other provision, the dollar amounts of the SDC set forth in the Transportation SDC Rate Schedule as well as the North Macadam Overlay Rate Study and the Innovation Quadrant Overlay Project Report ~~will~~ on July 1st of each year be increased or decreased automatically by the difference of the 5-year moving average of the 20-City Construction Cost Index published by the Engineering News Record.

B. Institutional Development.

1. Institutional Development ~~will~~ be subject to assessment under this Subsection or under Subsection A. above, at the election of the Applicant. If the Applicant elects assessment under this Subsection, this method of assessment ~~will~~ be utilized on Institutional properties designated in the election for a period of not less than three years from date of initial election.

2. Within 60 days of election of the alternate assessment under this Subsection, the Applicant Institution ~~shall~~ submit the proposed methodology for counting Trips to the SDC Administrator. The SDC Administrator ~~will~~ determine whether the proposed methodology is acceptable within 20 days from the date of election and submission, and, if the methodology is rejected, the SDC Administrator ~~will~~ provide an explanation for the decision.

3. Within one year of the date of election of the alternative method of assessment under this Subsection, at the time(s) designated in the accepted method to count Trips, the Applicant Institution ~~shall~~ establish the average PM Peak Hour Trip count. Such data and related analysis ~~will~~ be based upon a methodology to calculate Trips accepted by the SDC Administrator.

4. The amount of the SDC ~~will~~ be determined at the end of each 12-month period by multiplying the applicable dollar amount, as provided in the Transportation SDC Rate Schedule, by the change in average PM Peak Hour Trip count during the intervening 12-month period. Such SDC, if any, ~~shall~~ ~~is~~ due and payable within 45 days from the close of the 12-month period.

5. For uses for which the appropriate SDC calculation is a unit of measure other than square feet, such as the number of students, movie screens, etc., the first Application submitted for such a use that is subject to this Chapter ~~will~~ establish the baseline number of existing units of measure. No SDC ~~will~~ be assessed against that baseline. A baseline Trip rate so established ~~will~~ be valid, and need not be recalculated, for the next 12 months.

C. Port Development. At the Applicant's option, Port Development may be subject to assessment under Subsection A. of this Section, or under this Subsection.

1. If the Applicant elects assessment under this Subsection C., the Applicant and the City ~~will~~shall negotiate an agreement for the payment of a fee in lieu of the Transportation SDC that includes the following elements:

a. A methodology for estimating the amount of the SDC ~~that~~which would be imposed pursuant to Subsection A. above during a period of either 3 years or until the expiration of the SDC project list, whichever is less, but in any event not more than 10 years, as specified by the Applicant. The methodology ~~will~~shall take into account the Port Development anticipated under the Applicant's master plan during the period specified in that plan, the Trips that the Port Development is expected to generate, Trip levels against which SDCs have historically been assessed, the anticipated increases or decreases in the dollar amounts of the SDC during the specified period, any applicable credits or exemptions and any other factors ~~that~~which the SDC Administrator deems to be relevant. In no event ~~shall~~will the charge estimated under this Subsection be less than the SDC that would otherwise be due for the Port Development and the Applicant ~~shall~~must indicate its agreement to the methodology in writing.

b. A payment period ~~will~~shall be imposed during which the Applicant ~~shall~~must pay in full the amount due within 12 months of the Applicant's agreement to the methodology.

2. In the event the Applicant and the City are unable to agree to a methodology under this Subsection, the normal method of calculating and assessing the SDC under Subsection A. above ~~will~~shall apply.

17.15.050 Exemptions and Discounts.

~~(Amended by Ordinances 171698, 173437, 177198, 181322, 182389, 182652, 183679, 183448, 184756, 185195, 185987, 187821, 188619, 188757, 188758, 189050, 189323, 189651 and 190381, effective April 30, 2021.)~~

The uses listed and described in this section ~~shall be~~are exempt, either partially or fully, from payment of the Transportation SDC. Any Applicant seeking an exemption or a discount under this Section ~~shall~~must specifically request that exemption within 180 days after building permit issuance for the New Development. Where New Development consists of only part of one or more of the uses described in this section, only ~~that~~those portion(s) of the development ~~that~~which qualify under this section are eligible for an exemption or discount. The balance of the New Development ~~that~~which does not qualify for any exemption or discount under this section ~~shall~~will be subject to the full SDC. Should the Applicant dispute any decision by the City regarding an exemption or discount request, the Applicant must apply for an alternative exemption calculation under Section 17.15.070. The Applicant has the burden of proving entitlement to any exemption so requested.

A. Temporary Uses are fully exempt so long as the use or structure proposed in the New development will be used not more than 180 days in a single calendar year.

B. New Development that will not generate more than 15 percent more Person Trips than the present use of the property generates and that will not increase Person Trips by more than 25 Person Trips ~~shall be~~ fully exempt.

C. Certain structures and uses are exempt to the extent established by Section 17.14.070 of [Portland City](#) Code.

D. Discount of the Transportation SDC may be available for qualified land use types described in this Subsection and located within designated areas of the City. The Applicant has the burden of proving entitlement to any discount so requested. For projects located within the North Macadam TSDC Overlay area or Innovation Quadrant TSDC Overlay area, the discount is only applicable to the Citywide TSDC. No discount may be applied to the North Macadam Overlay TSDC or the Innovation Quadrant Overlay TSDC.

1. To qualify for a discount, the Applicant must demonstrate the following:

a. The New Development will be located within the Central City or other centers as designated by the Bureau of Planning and Sustainability. Other centers include the Gateway Plan District, areas within Town Centers and Neighborhood Centers as mapped in the new 2035 Comprehensive Plan, and parcels within 1,000 feet of light rail stations (excluding single-family, OS, and IG and IH zones).

b. The New Development will meet the eligibility criteria listed in the following table:

Residential

Single Family (1,200 square feet or more)	Ineligible
Single Family (1,199 square feet or less)	Ineligible
Multiple Family	Eligible if in mixed use site that is built to at least 75% of max FAR
Senior Housing/Congregate Care/Nursing Home	Eligible if in mixed use site that is built to at least 75% of max FAR

Commercial – Services

Bank	Eligible if in mixed use site that is built to at least 75% of max FAR
Day Care	Eligible if in mixed use site that is built to at least 75% of max FAR
Hotel/Motel	Eligible if in mixed use site that is built to at least 75% of max FAR
Service Station / Gasoline Sales	Ineligible
Movie Theater/Event Hall	Eligible if in mixed use site that is built to at least 75% of max FAR
Carwash	Ineligible
Health Club / Racquet Club	Eligible if in mixed use site that is built to at least 75% of max FAR

Commercial – Institutional

School, K-12	Eligible
University / College / Jr. College	Eligible
Church	Eligible
Hospital	Eligible
Park	Eligible

Commercial - Restaurant

Restaurant (Standalone)	Eligible if in mixed use site that is built to at least 75% of max FAR
Quick Service Restaurant (Drive-Through)	Ineligible

Commercial - Retail

Shopping/Retail	Eligible if in mixed use site that is built to at least 75% of max FAR
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Convenience Market	Eligible if in mixed use site that is built to at least 75% of max FAR
Free Standing Retail Store/ Supermarket	Eligible if in mixed use site that is built to at least 75% of max FAR
Car Sales - New / Used	Ineligible

Commercial – Office

Administrative Office	Eligible if in mixed use site that is built to at least 75% of max FAR
Medical Office / Clinic	Eligible if in mixed use site that is built to at least 75% of max FAR

Industrial

Light Industry / Manufacturing	Eligible if in mixed use site that is built to at least 75% of max FAR
Warehousing / Storage	Ineligible
Self-Storage	Ineligible

2. The following Transportation SDC discounts apply to eligible land uses:

- a. Central City – 33 percent reduction**
- b. Other Centers– 8 percent reduction**

E. Graded Scale: A change in use of an existing building where the gross enclosed floor area does not exceed 3,000 square feet is fully exempt. A change in use of an existing building where the gross floor area is between 3,000 square feet and 5,000 square feet will shall be assessed on a graded scale. The percentage of the rate to be assessed on the entire existing building will shall be calculated by the following equation:

(size of existing building - 3,000 square feet) / 2,000 square feet

Examples of Graded Scale Assessment Calculations

(4,000 - 3,000) / 2,000 = 0.50 Existing 4,000 square foot building assessed at 50% of the rate

$(3,200 - 3,000) / 2,000 = 0.10$ Existing 3,200 square foot building assessed at 10% of the rate

$(4,900 - 3,000) / 2,000 = 0.95$ Existing 4,900 square foot building assessed at 95% of the rate

F. Alteration permits for tenant improvements, new construction or remodeling are fully exempt where:

1. no additional dwelling unit(s) or structure(s) are created;
2. the use or structure will not result in an increase in additional Trips according to the City Rate Study and, if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report;
3. the use or structure is of a temporary nature and is used less than 180 days in a calendar year.

G. The construction of accessory buildings or structures thatwhich will not create additional dwelling units or thatwhich do not create additional demands on the City's capital improvements are fully exempt.

H. For New Development thatwhich includes a mix of exempt and non-exempt forms of development, the applicable exemption(s) willshall apply only to that portion of the New Development to which the exemption applies.

17.15.060 SDC Credits, SDC Credit Transfers and SDC Reimbursements.

~~(Amended by Ordinances 172677, 173121, 173437, 174936, 181322, 182652, 184756, 185195 and 188619, effective January 1, 2018.)~~

A. SDC Credits:

1. The City may grant a credit against the Transportation SDC; thatwhich is otherwise assessed for a New Development; for eligible capital improvements constructed or dedicated as part of the New Development. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC Credit.

a. To obtain an SDC Credit, the Applicant must specifically request a credit within 180 days after building permit issuance for the New Development. In the request, the Applicant must identify the improvement(s) for which credit is sought and explain how the improvement(s) meet the requirements for a Qualified Public Improvement or other eligible improvement pursuant to Subsection 17.15.060 A.1.c. The Applicant shall-must also document, with credible evidence, the value of the improvement(s) for which credit is sought, as follows:

(1) For dedicated lands, value ~~will~~shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction.

(2) For improvements yet to be constructed, value ~~will~~shall be based upon the anticipated cost of construction. Any such cost estimates ~~shall~~must be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC Credit is sought.

(3) For improvements already constructed, value ~~will~~shall be based on the actual cost of construction as verified by receipts submitted by the Applicant.

b. If, in the SDC Administrator's opinion, the improvement(s) are Qualified Public Improvements, and the SDC Administrator concurs with the proposed value of the improvement(s), an SDC Credit ~~will~~shall be determined by the SDC Administrator as follows:

(1) For improvements on or contiguous to the New Development site, only the costs for the Over-Capacity portion of the improvement as described in the definition of Qualified Public Improvement are eligible for SDC Credit. There is a rebuttable presumption that improvements built to the City's minimum standards are required to serve the Applicant's New Development and to mitigate for transportation system impacts attributable to the Applicant's New Development.

(2) For Qualified Public Improvements not located on or contiguous to the New Development site, the full cost of the improvement may be eligible for SDC Credit.

c. The SDC Administrator may grant credit for all or a portion of the costs of capital improvements constructed or dedicated as part of the New Development that do not meet the requirements of Qualified Public Improvements, provided that the improvements are listed on the City's TSDC Project List. In such case, the SDC Administrator may determine what portion of the costs are eligible for SDC Credit.

d. For all improvements for which Credit is sought within the North Macadam Transportation System Development Charge Overlay, the SDC Administrator ~~will~~shall apportion the Credit based upon the percent of the total SDC attributable to the City Rate Study and the Overlay Rate Study.

e. For all improvements for which Credit is sought within the Innovation Quadrant Transportation System Development Charge Overlay, the [SDC](#) Administrator ~~will~~[shall](#) apportion the Credit based upon the percent of the total SDC attributable to the City Rate Study and the Innovation Quadrant Overlay Project Report.

f. The Administrator will provide to the Applicant a written notice of the City's decision on the SDC Credit request, including an explanation thereof, within 21 calendar days of the request being submitted.

g. The Applicant may seek an alternative SDC Credit calculation under Section 17.15.070. Any request for an Alternative SDC Credit calculation must be filed with the [SDC](#) Administrator in writing within 10 calendar days of the written decision on the initial Credit request.

2. Granting SDC Credits to New Development Prior to Commencing Construction of New Development. When an eligible improvement is built by a Developer prior to an Applicant applying for Building Permits for the New Development, the City may grant a credit for any eligible improvement(s). Credits issued are pursuant to the following requirements and conditions:

a. The Developer must specifically request a credit prior to the first Application for a Building Permit, but after the issuance of the Public Works Permit for the eligible improvement;

b. For improvements yet to be constructed, the Developer ~~shall~~[must](#) provide the City with an enforceable mechanism to guarantee completion of the eligible improvement, either in the form of a performance bond or other financial guarantee acceptable to the [SDC](#) Administrator; and

c. The Developer ~~shall~~[must](#) submit written confirmation to the [SDC](#) Administrator on the form provided acknowledging:

(1) That SDC credits issued pursuant to this Section are in lieu of any other credits that could be claimed by the Developer or other Applicants on account of the eligible improvement; and

(2) That it is the Developer's obligation to advise subsequent Applicants of the New Development that SDC credits associated with the eligible improvement have already been issued and that no further credits are available.

3. Where the amount of an SDC Credit approved by the [SDC](#) Administrator under this Section exceeds the amount of the Transportation SDC assessed by the City upon a New Development, the SDC Credit may not be transferred to a different development site. An SDC Credit ~~shall~~[may](#) be issued by the

City for a particular dollar value to the Applicant or Developer. The Applicant or Developer may convey by any means and for any value an SDC Credit to any other party to be used on the initial development site.

4. The City previously allowed SDC Credits to be transferred to other parties without restriction as to location. The City will continue to honor those SDC Credits issued prior to January 1, 2018.

5. The City ~~shall~~ may accept at face value any SDC Credit presented as full or partial payment for the Transportation SDC due on New Development, except that SDC credits approved in connection with New Development outside the North Macadam Renewal District and applied to New Development inside the North Macadam Urban Renewal District may only be applied to the portion of that New Development's SDCs payable under the City Rate Study, and SDC credits approved in connection with New Development outside the Innovation Quadrant and applied to New Development inside the Innovation Quadrant may only be applied to the portion of that New Development's SDCs payable under the City Rate Study. Neither the City nor any of its employees or officers ~~will~~ shall be liable to any party for accepting an SDC Credit, approved and issued by the City under this Section, as payment for a Transportation SDC.

6. SDC Credits are void and of no value if not redeemed with the City for payment of a Transportation SDC within 10 years of the date of issuance.

7. It ~~shall be~~ is a violation of this title for any person to counterfeit or forge an SDC Credit or knowingly attempt to negotiate or redeem any counterfeit or forged SDC Credit.

B. SDC Reimbursement.

1. If an Applicant proposes New Development on property on which there is already a use that generates at least 15 percent more Person Trips than the proposed use generates, or that generates at least 25 more Person Trips beyond what the proposed use generates, and if the Development had previously paid a Transportation SDC, then the Applicant ~~shall~~ may be entitled to an SDC reimbursement. The SDC reimbursement ~~will~~ shall be in the form of a credit equal to the difference between the SDC Rate of the previous use and that for the proposed use. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC reimbursement and to a particular amount of such a reimbursement.

2. To obtain an SDC reimbursement, the Applicant must request the reimbursement within 180 days after building permit issuance for the New Development and must document the basis for the request with traffic reports prepared and certified to by a Professional Engineer.

3. The SDC Administrator willshall notify the Applicant in writing of its decision on the SDC Reimbursement request and willshall provide a written explanation of the decision. For all improvements for which Reimbursement is sought within the North Macadam Transportation System Development Charge Overlay, the Administrator willshall apportion the Reimbursement based upon the percent of the total SDC attributable to the SDC calculated from the City Rate Study and from the North Macadam Overlay Rate Study. For all improvements for which Reimbursement is sought within the Innovation Quadrant Overlay, the SDC Administrator willshall apportion the Reimbursement based upon the percent of the total SDC attributable to the SDC calculated from the City Rate Study and from the Innovation Quadrant Overlay Project Report.

4. The Applicant may seek an Alternative SDC Reimbursement calculation under Section 17.15.070 in the same manner as for an Alternative SDC Rate request. Any request for an Alternative SDC reimbursement calculation must be filed with the a SDC Administrator in writing within 10 calendar days of the written decision on the initial reimbursement request.

17.15.070 Alternative Calculation for SDC Rate, Credit, Exemption, or Discount.

~~(Amended by Ordinances 181322, 182652, 184756 and 188619, effective January 1, 2018.)~~

A. Pursuant to this section, an applicant may request an alternative SDC calculation, alternative SDC credit determination or alternative SDC exemption, but only under the following circumstances:

1. The Applicant believes the number of Person Trips resulting from the New Development is, or will be, less than the number of Trips established in The City Rate Study and if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report, and for that reason the Applicant's SDC should be lower than that calculated by the City.
2. The Applicant believes the City improperly excluded from consideration a Qualified Public Improvement that would qualify for credit under Section 17.15.060, or the City accepted for credit a Qualified Public Improvement, but undervalued that improvement and therefore undervalued the credit.
3. The Applicant believes the City improperly rejected a request for an exemption or discount under Section 17.15.050 for which the Applicant believes it is eligible.

B. Alternative SDC Rate Request:

1. If an Applicant believes the number of Trips resulting from the New Development is less than the number of Trips established in The City Rate

Study and, if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report, the Applicant must request an alternative SDC rate calculation, under this section, within 180 days after building permit issuance for the New Development. The City ~~will~~shall not entertain such a request filed more than 180 days after building permit issuance for the New Development. Upon the timely request for an alternative SDC rate calculation, the SDC Administrator ~~will~~shall review the Applicant's calculations and supporting evidence and make a determination within 21 calendar days of submittal as to whether the Applicant's request satisfies the requirements of this Section.

2. In support of the Alternative SDC rate request, the Applicant must provide complete and detailed documentation, including verifiable Trips generation data, analyzed and certified by a Professional Engineer. The Applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, growth projections and techniques of analysis. The proposed Alternative SDC Rate calculation ~~shall~~must include an explanation by a registered engineer explaining with particularity why the rate established in the City Rate Study and, if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report does not accurately reflect the New Development's impact on the City's transportation system

3. The SDC Administrator ~~shall~~may apply the Alternative SDC Rate if, in the SDC Administrator's opinion, all of the following are true:

- a.** The evidence and assumptions underlying the Alternative SDC Rate are reasonable, correct and credible and were gathered and analyzed by a suitable, competent professional in compliance with generally accepted engineering principles and methodologies and consistent with this Section; and
- b.** The proposed Alternative SDC rate was calculated according to a generally accepted methodology; and
- c.** The proposed alternative SDC rate more realistically reflects the Person Trips generated by the New Development compared to the rate set forth in the City Rate Study and, if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report.

4. If, in the SDC Administrator's opinion, not all of the above criteria are met, the SDC Administrator ~~will~~shall provide to the Applicant by certified mail, return receipt requested, a written decision explaining the basis for rejecting the proposed alternative SDC rate.

C. Alternative SDC Credit Request:

1. If an Applicant has requested an SDC Credit pursuant to Section 17.15.060 and that request has either been denied by the City or approved but at a lower value than desired, the Applicant may request an Alternative SDC Credit calculation under this section. Any request for an Alternative SDC Credit calculation must be filed with the [SDC](#) Administrator in writing within 10 calendar days of the written decision on the initial credit request.

Upon the timely request for an Alternative SDC Credit calculation, the [SDC](#) Administrator ~~will~~[shall](#) review the Applicant's calculations and supporting evidence and make a determination within 21 calendar days of submittal as to whether the Applicant's request satisfies the requirements of this Section.

2. In support of the Alternative SDC credit request, the Applicant must provide complete and detailed documentation, including appraisals, cost analysis or other estimates of value, analyzed and certified by an appropriate professional, for the improvements for which the Applicant is seeking credit. The Applicant's supporting documentation must rely upon generally accepted sources of information, cost analysis and techniques of analysis as a means of supporting the proposed Alternative SDC credit.

3. The [SDC](#) Administrator ~~shall~~[may](#) grant the Alternative SDC Credit if, in the [SDC](#) Administrator's opinion, all of the following are true:

- a. The improvement(s) for which the SDC Credit is sought are Qualified Public Improvement(s); and
- b. The evidence and assumptions underlying the Applicant's Alternative SDC Credit request are reasonable, correct and credible and were gathered and analyzed by an appropriate, competent professional in compliance with generally accepted principles and methodologies; and
- c. The proposed alternative SDC Credit is based on a realistic, credible valuation or benefit analysis.

4. If, in the [SDC](#) Administrator's opinion, not all of the above criteria are met, the [SDC](#) Administrator ~~shall~~[may](#) deny the request and provide to the Applicant by certified mail, return receipt requested, a written decision explaining the basis for rejecting the Alternative SDC Credit proposal.

D. Alternative SDC Exemption or Discount Request:

1. If an Applicant has requested an exemption or discount under Section 17.15.050 and that request has been denied, the Applicant may request an Alternative SDC exemption or discount under this section. Any request for an Alternative SDC exemption or discount calculation must be filed with the [SDC](#) Administrator in writing within 10 calendar days of the written decision on the initial credit request. Upon the timely request for an Alternative SDC

exemption or discount, the SDC Administrator ~~will~~shall review the Applicant's request and supporting evidence and make a determination within 21 calendar days of submittal as to whether the Applicant's request satisfies the requirements of Section 17.15.050 for exemptions and discounts.

2. In support of the Alternative SDC exemption or discount request, the Applicant must provide complete and detailed documentation demonstrating that the Applicant is entitled to one of the exemptions or discounts described in Section 17.15.050.

3. The SDC Administrator ~~shall~~may grant the exemption or discount if, in the SDC Administrator's opinion, the Applicant has demonstrated with credible, relevant evidence that it meets the pertinent criteria in Section 17.15.050.

4. Within 21 calendar days of the Applicant's submission of the request, the SDC Administrator ~~will~~shall provide a written decision explaining the basis for rejecting or accepting the request.

17.15.080 Payment.

~~(Amended by Ordinances 173437, 181322, 182389, 183447, 188619 and 189413, effective March 6, 2019.)~~

A. The Transportation SDC required by this Chapter to be paid is due upon issuance of the Building Permit. However, in lieu of payment of the full SDC, the applicant may elect to pay the SDC in installments as provided in ORS chapter 223 and Chapter 17.14 of Portland City~~this~~ Code. If the Applicant elects to pay the SDC in installments, a lien will be placed against the property that is subject to the SDC, and that lien will be given first priority as provided by statute. The Applicant's election to pay the SDC by installments ~~will~~shall be memorialized in an SDC Deferral or Installment Agreement entered into by the Applicant and the City on a form provided by the City; and ~~that~~which may provide for the deferral of payments as set forth in Chapter 17.14 of Portland City~~this~~ Code. In any event, the Applicant ~~shall~~must either pay the SDC in full or enter into an SDC Deferral or Installment Agreement as provided in this section, before the City will issue any building permits.

B. Upon written request of the Bureau of Transportation, the ~~Revenue Division City Administrator~~is authorized to ~~may~~ cancel assessments of SDCs without further Council action, where the New Development approved by the Building Permit is not constructed and the Building Permit is cancelled.

C. For property that has been subject to a cancellation of assessment of SDCs, a new installment payment contract ~~will~~shall be subject to the Code provisions applicable to SDCs and installment payment contracts on file on the date the new contract is received by the City.

D. The City ~~of Portland will~~shall not be responsible for, nor have any responsibility to honor or enforce agreements made by private parties regarding the payment or collection of SDC assessments.

17.15.090 Refunds.

~~(Amended by Ordinances 181322 and 188619, effective January 1, 2018.)~~

Refunds may be given by the SDC Administrator upon finding that there was a clerical error in the calculation of the SDC. Refunds ~~shall~~are not ~~be~~ allowed for failure to timely claim credit or for failure to timely seek an Alternative SDC Rate calculation. The City will~~shall~~ refund any SDC revenues not expended within ten (10) years of receipt.

17.15.100. Dedicated Account and Appropriate Use of Account.

~~(Amended by Ordinances 181322, 182652, 184756 and 188619, effective January 1, 2018.)~~

A. There is created a dedicated account entitled the “SDC Account.” All monies derived from the SDC must~~shall~~ be placed in the SDC Account. Funds in the SDC Account ~~shall~~may be used solely to provide the TSDC Project List capacity increasing improvements according to the TSDC Project List as it currently exists or as ~~hereinafter~~ amended, and eligible administrative costs. All monies derived from the North Macadam Overlay Rate Study ~~shall~~must be placed in a sub-account. The monies in the Overlay sub-account ~~shall~~may only be spent on projects serving the North Macadam urban renewal area. All monies derived from the Innovation Quadrant Overlay Project Report ~~shall~~must be placed in a sub-account. The monies in the Overlay sub-account ~~shall~~may only be spent on projects serving the Innovation Quadrant. In this regard, SDC revenues may be used for purposes that~~which~~ include:

1. project development, design and construction plan preparation;
2. permitting;
3. right-of-way acquisition, including any costs of acquisition or condemnation;
4. construction of new through lanes for vehicular, transit, or bicycle use;
5. construction of turn lanes;
6. construction of bridges;
7. construction of drainage and stormwater management and treatment facilities in conjunction with new roadway construction;

8. purchase and installation of traffic signs and signals;
9. construction of curbs, medians and shoulders;
10. relocating utilities to accommodate new roadway construction;
11. construction management and inspection;
12. surveying and soils and material testing;
13. construction of Accessways, bicycle facilities, Pedestrian Connections and Walkways;
14. landscaping;
15. bus pullouts, transit shelters, fixed rail transit systems and appurtenances;
16. costs associated with acquisition of rolling stock;
17. demolition that is part of the construction of any of the improvements on this list;
18. payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide money to construct or acquire transportation facilities; and
19. direct costs of complying with the provisions of ORS 223.297 to 223.314, including the costs of developing system development charges methodologies and providing an annual accounting of system development charges expenditures.

B. Money on deposit in the SDC Accounts ~~shall~~may not be used for:

1. any expenditure that would be classified as a maintenance or repair expense; or
2. costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or
3. costs associated with maintenance of rolling stock.

17.15.110 Challenges and Appeals.

~~(Amended by Ordinances 173121, 181322 and 188619, effective January 1, 2018.)~~

A. Any resident of Portland or any person with interest may challenge the expenditure of SDC revenues by filing a challenge to the expenditure with the SDC

Administrator within two years after the date of the disputed SDC revenue expenditure. The fee for filing such a challenge ~~shall be~~ is \$250.

B. Except where a different time for an SDC Administrator's determination is provided in this Chapter, all determinations of the SDC Administrator ~~will shall~~ be in writing and ~~will shall~~ be delivered to the Applicant within 21 calendar days of an Application or other Applicant request for an SDC Administrator determination. Delivery of such determination ~~will shall~~ be deemed complete upon the earlier of actual delivery to the Applicant or upon deposit by the SDC Administrator in the mail, first class postage prepaid, addressed to the address for notice Applicant has designated in the Application. Such determination ~~will shall~~ be accompanied by a notice of the Applicant's right to appeal and an outline of the applicable procedures ~~therefore~~.

C. Any Applicant not content with an SDC Administrator's determination may appeal that determination to the Code Hearings Officer as provided in Chapter 22.10 of Portland City ~~this~~ Code. Notwithstanding any other provisions of Portland City ~~this~~ Code, there ~~shall be~~ is a non-refundable fee of \$250 for any appeal pursuant to this subsection. Such fee must accompany any such appeal and no such appeal ~~will shall~~ be considered filed or received until such fee is paid in full.

D. The City ~~will shall~~ withhold all permits and other approvals applicable to the Applicant's property of the New Development pending resolution of all appeals under this Chapter unless the SDC is paid in full or the Applicant provides, for the pendency of the appeal, a financial guarantee or security for the charge in a form acceptable to the City Attorney.

17.15.120 City Review of SDC.

~~(Amended by Ordinances 181322, 182652, 184756 and 188619, effective January 1, 2018.)~~

A. No later than every two (2) years as measured from initial enactment, the City ~~will shall~~ undertake a review to determine the total SDCs assessed and collected by transportation district and the total SDCs expended and programmed by transportation district and project; to determine that sufficient money will be available to help fund the TSDC Project List identified capacity increasing facilities; to determine whether the adopted SDC Rate keeps pace with inflation; to determine whether the TSDC Project List should be modified; and to ensure that such facilities will not be overfunded by the SDC receipts.

B. In the event that during the review referred to above, it is determined an adjustment to the SDC is necessary for sufficient funding of the TSDC Project List improvements listed in the City Rate Study, North Macadam Overlay Rate Study, or the Innovation Quadrant Overlay Project Report or to ensure that such TSDC Project List improvements are not overfunded by the SDC, the City Council may propose and adopt appropriately adjusted SDCs.

C. The City Council may from time to time amend or adopt a new City Rate Study by resolution.

17.15.130 Time Limit on Expenditure of SDCs.

~~(Amended by Ordinance 188619, effective January 1, 2018.)~~

The City ~~shall~~must expend SDC revenues within ten (10) years of receipt, based on the priorities in the TSDC Project list.

17.15.140 ~~Implementing Regulations; Amendments~~Administrative Rules and Procedures.

~~(Amended by Ordinances 171698, 181322 and 188619, effective January 1, 2018.)~~

~~The City Administrator may adopt administrative rules as authorized by Charter. The City Council delegates authority to the Director of Transportation to adopt administrative rules and procedures necessary to implement provisions of this Chapter, including the appointment of an the SDC program Administrator. All rules pursuant to this delegated authority shall be filed with the Office of the City Auditor and be available for public inspection.~~

17.15.150 Amendment of TSDC Project List.

~~(Amended by Ordinances 182652 and 188619, effective January 1, 2018.)~~

The City may, by resolution, amend its TSDC Project List as set forth in the City Rate Study, North Macadam Overlay Rate Study, or the Innovation Quadrant Overlay Project Report from time to time to add projects the City deems appropriate.

17.15.160 Severability.

~~(Amended by Ordinances 181322 and 188619, effective January 1, 2018.)~~

The provisions of this Chapter are severable, and it is the intention to confer the whole or any part of the powers ~~herein~~ provided ~~for~~by those provisions. If any word, definition, clause, section or provision of this Chapter is declared unconstitutional or invalid for any reason or cause, the remaining portion of this Chapter ~~shall~~will be in full force and effect and be valid as if such invalid portion thereof had not been incorporated ~~herein~~ it. In the event a definition is held to be invalid or is severed, the defined word or term ~~shall~~must be deemed to have the meaning given to that word or term under Oregon law if Oregon law contains such a definition. If there is no established definition of the word or term under Oregon law, the word or term ~~shall~~will have its ordinary dictionary meaning. It is ~~hereby~~ declared to be the Council's express legislative intent that this Chapter would have been adopted had such an unconstitutional or otherwise invalid provision not been included ~~herein~~ it.

Chapter 17.16 General Provisions

17.16.010 Specifications and Authority to Revise.

~~(Amended by Ordinances 149769, 173295 and 184957, effective November 25, 2011.)~~

A. All work done and materials used for ~~either~~ a local or public improvement, whether ~~it be established~~ as a district or allowed by permit, ~~shall~~ must conform to the provisions of this Title and to the current version of the standard construction specifications.

B. Revisions. The City ~~Engineer, in consultation with the Chief Engineers of the Bureau of Environmental Services and the Portland Water Bureau, Administrator is authorized to may~~ revise the standard construction specifications of the City of ~~Portland as needed, excluding Part 01100 Water Supply Systems contained therein, which shall be revised by the Chief Engineer of the Portland Water Bureau.~~

17.16.020 Interpretation of Specifications.

~~(Amended by Ordinances 149769, 173295 and 184957, effective November 25, 2011.)~~

The decision of the City ~~Engineer~~ Administrator as to all performances, materials and technical requirements of standard specifications and plans for a local improvement or public improvement ~~shall will~~ be final and conclusive ~~excepting work performed in accordance with Part 01100 of the standard construction specifications for which the Chief Engineer, Portland Water Bureau shall have final and conclusive decision.~~ The interpretation of all other provisions of standard construction specifications ~~shall will~~ be determined by the City Attorney.

17.16.030 Progress Payments.

~~(Amended by Ordinances 138075, 140744, 173295 and 189413, effective March 6, 2019.)~~

A. Subject to applicable provisions of the City Charter and in accordance with the specifications adopted for particular work by the ~~Council~~ City Administrator, progress payments may be made by the City periodically as required by the contract for the improvement work, on the basis of a certificate concerning the same, filed with the ~~revenue service and program of the City Administrator Revenue Division~~ by the Responsible Engineer.

B. The progress payment certificate ~~shall will~~ show the amount of work and material applied to the local improvement or public improvement and not included in any prior certificate, the reasonable value of the work and material, the contract price thereof, the amount to be retained pursuant to the contract, and the amount to be paid as a progress payment. Contract provision for the progress payments ~~shall will~~ be deemed sufficient without further approval by the ~~Council~~ City Administrator, subject to sufficient allocation of funds by the Council, except that if the contractor is found

to be delinquent, if the payment is the last payment to be made before payment of retainage pursuant to the contract, or if any progress payment covers work ~~which that~~ is in addition to or an extra over the basic contract, then a progress payment ~~shall may~~ not be made pursuant to the Responsible Engineer's certificate until such certificate has been presented to the ~~Council~~ City Administrator and approved by the City Administrator ~~Council~~, or the City Administrator ~~Council~~ has separately authorized the extra work.

C. On any contract for a local improvement ~~which that~~ does not contain a specific provision for progress payments, a single progress payment ~~shall will~~ be made at the time the final estimate of the Responsible Engineer is filed with the revenue service and program of the City Administrator ~~Revenue Division~~ if such payment is requested by the contractor. The progress payment ~~shall may~~ not exceed 95 percent of City Administrator ~~Council~~ authorized contract costs included in the final estimate. This paragraph ~~shall be is~~ applicable to contracts ~~which that~~ are completed after the passage of this Ordinance.

17.16.040 Interest on Progress Payment and Final Warrants.

Payment for work done as a local improvement ~~shall will~~ be made by warrant drawn on the Local Improvement Assessment Fund for the particular improvement created or to be created when assessments therefor are paid. Any warrant for a progress payment or final warrant drawn against a Local Improvement Assessment Fund, either to be created or already in existence, ~~shall will~~ bear interest at the rate of 6 percent per year beginning on the 10th day after the date of the warrant. Total interest on such warrants ~~shall may~~ not exceed the total amounts collected as interest from the properties assessed. When sufficient money is collected and is in the Local Improvement Assessment Fund to pay accrued interest on the oldest outstanding warrant and some portion or all of the principal on such warrant, the interest on the warrant ~~shall will~~ cease as of the day when the principal amount or portion thereof is collected, to the extent of the amount collected.

17.16.050 Progress Payment Not Deemed Final Acceptance.

~~(Amended by Ordinance 173295, effective April 28, 1999.)~~

No progress payment ~~shall may~~ be deemed a final acceptance or any acceptance of the work or material represented by such progress payment, nor ~~shall may~~ the progress payment affect the liability of the contractor or the contractor's surety relating to the public work or local improvement.

17.16.060 Division of Warrants.

When money has been collected and is in a Local Improvement Assessment Fund sufficient to pay all or a portion of the principal as well as the accrued interest on the oldest outstanding warrant, upon presentation of the warrant the Treasurer ~~shall will~~ pay the accrued interest and principal amount collected upon the outstanding

warrant and issue a new warrant for the unpaid principal balance. The new warrant ~~shall~~will bear interest from the 10th day after the date of the original warrant.

17.16.065 Purchase of Warrants by the City.

~~(Added by Ordinance 138072, amended by Ordinance 173295, effective April 28, 1999.)~~

The City ~~of Portland shall~~will purchase local improvement warrants issued for progress payments and final payment to a contractor on a local improvement project under the conditions listed below upon written request from the contractor to the City Finance Officer:

- A.** Either the official estimate of the Responsible Engineer or the bid of the contractor is less than \$50,000,
- B.** Before the plans and specifications for the project were issued it has been determined by the Finance Officer that funds would be available in the Assessment Collection Fund for this purpose,
- C.** The plans and specifications for the project will include a provision that such warrants will be purchased by the City from the contractor at the contractor's request,
- D.** The purchase will be made by the City no earlier than 10 days and no later than 30 days after the issue date,
- E.** The purchase of final warrants will be at face value without accrued interest. The purchase of progress payment warrants will be at face value discounted by an amount equal to 10 days of interest and without accrued interest.

17.16.070 Claims Against Contractors.

~~(Amended by Ordinances 173295 and 189413, effective March 6, 2019.)~~

Notwithstanding contractual provisions for payment of progress payment warrants, final payment warrants or payment of retainage, any person given a right by statute to institute an action on the contractor's bond may file a claim with the ~~revenue service and program of the City Administrator~~Revenue Division for the labor, material, or payment to State funds for which the contractor is liable in connection with the performance of the contract. In the event such claim is filed and the contractor has money due and owing from the City, the money due and owing ~~shall~~may not be paid to the contractor until 20 days after the filing of the claim. If, prior to the expiration of such 20 day period, the money due and owing to the contractor has been ordered withheld or paid into court by a court of competent jurisdiction, if the claimant withdraws the claim, or if the contractor orders all or a portion of the amount due and owing to be paid to the claimant, then the ~~revenue service and program of the City Administrator~~Revenue Division shall will divide the payment or treat the

same as required by such order or withdrawal. However, if the only money due and owing to the contractor is the final retainage, then the City ~~shall~~must have first call upon the retained amount for correction of defects in the contract.

17.16.080 Statutory Provisions Relating to Labor and Wages.

All contractors employed by the City ~~shall~~must comply with all statutory requirements concerning hours of labor and prevailing wage rates. All certifications required by statute to be filed with the City ~~shall~~must be so filed.

17.16.090 Bonding City Property.

~~The Mayor or a Commissioner to whom particular City property has been assigned, which If City-owned~~ property is assessed for a local improvement, ~~shall have authority to the City Administrator may~~ make application for bonding and ~~to sign the application. For such application, said Mayor or Commissioner the City Administrator shall will~~ be deemed the owner on behalf of the City.

17.16.100 Facilities in Street Area Affected by Improvement.

~~(Amended by Ordinance 173295, effective April 28, 1999.)~~

A. If a fire hydrant has been installed at established street grade and in a location approved by the City ~~Engineer~~Administrator, and a local improvement or public improvement requires moving ~~such the~~ hydrant, the ~~Portland Water Bureau of Water Works shall will, upon request at the direction,~~ of the City ~~Administrator~~Engineer make the necessary change. The cost ~~thereof the change shall will~~ be included in the cost of the improvement unless the Council directs payment from public funds.

B. In all other cases, any facility over, upon or under the street area, required to be moved either for construction or as the result of a local or public improvement ~~shall must~~ be changed, moved, removed, or relocated, as the City ~~Administrator~~Engineer may direct, at the expense of the owner of the facility. The change includes any trenches and filling thereof or other work necessary for the change. However, this does not relieve the contractor from liability or responsibility under contract specifications. Liability of the owner of the facility for such change ~~shall will~~ be conditioned upon notice in writing given by the contractor at least 10 days preceding the improvement work in the area. In case any such owner fails or refuses to make the change or relocation, then upon direction by the City ~~Administrator~~Engineer the contractor on the improvement may perform such change or relocation, and upon approval of the contractor's bill therefor by the City ~~Administrator~~Engineer, if the owner of the facility is the owner of land to be assessed for the local improvement, then the City ~~shall will~~ add the amount of the bill for the work to the local improvement assessment to be assessed upon the property. If the contractor has performed such work of change or relocation of facility, and the owner thereof is not chargeable by assessment of benefit from the improvement, then the contractor ~~shall must~~ look solely to the owner of such facility for reimbursement of the cost of change or relocation. In case of a public improvement constructed at the expense of

City funds, City funds ~~shall~~will be chargeable for the cost of moving any City owned facilities.

C. The contractor for a public improvement or local improvement ~~shall~~may not interfere with or impede any person engaged in changing or relocating the facility within a street area, as required in this Section.

D. The right is reserved to the City and to owners of public utilities in the street area to enter upon such street area for repairs, changes or installation of additional facilities in the street area of the improvement work.

17.16.110 Facilities in Street Area Damaged by Contractor.

~~(Amended by Ordinances 131165, 173295 and 183397, effective January 8, 2010.)~~

A. If, in the course of the construction of a local or public improvement, the contractor or ~~his or her~~the contractor's subcontractor damages or displaces a public improvement, such as a curb, sidewalk, water line or meter, ~~maintenance~~ hole, drainage improvement, or other installation, then the contractor ~~shall~~must repair or replace the public improvement at the contractor's own expense in a proper manner as approved by the City ~~Engineer~~Administrator, except ~~in the case of~~:

1. Damage to a sewer or drainage improvement ~~shall~~must be repaired in a proper manner as approved by the ~~Chief Engineer of the Bureau of Environmental Services~~City Administrator. Contractors may be granted the option of funding the City to make the repairs in their stead; and
2. Damage to a water line or meter ~~shall~~will be repaired by the Portland Water Bureau of Water Works and billed to the contractor or others, in the manner specified in Title 5, Revenue and Finance, of Portland City~~this~~ Code.

B. If, in the course of the work of a local improvement or public improvement, a contractor damages any underground facility owned by an adjacent property owner ~~which and the facility~~ is not located within 2 feet of the street grade established for that location, the contractor ~~shall~~will be liable for the cost of repair or replacement of the facility unless the plans, specifications and contract otherwise specifically prescribe. The repair or replacement ~~shall~~must be done by the owner of such facility at the expense of the contractor unless the owner directs the contractor to perform such work.

C. If, in the course of the work of a local improvement or public improvement, a contractor damages any underground facility owned by an adjacent property owner ~~which and the facility~~ is located within 2 feet of the established street grade in the area, then such facility ~~shall~~must be repaired, replaced or relocated as directed by the Responsible Bureau, subject to approval by the City ~~Administrator~~Engineer, at the expense of the owner thereof, notwithstanding any failure to notify the owner of the need for relocation or change as prescribed in Section 17.16.100, unless the plans, specifications and contract otherwise prescribe.

17.16.120 ~~Engineer's~~ Standards.

~~(Amended by Ordinance 173295, effective April 28, 1999.)~~

The City ~~Engineer~~ Administrator may establish standards for particular types or classes of work to be performed by contractors or by persons permitted to construct facilities in streets, easements or other public property. Any person constructing the facility ~~shall~~ must comply with such standards unless otherwise specifically authorized by the City ~~Engineer~~ Administrator to deviate from those standards.

17.16.130 Approvals by City Attorney.

All contracts, bonds, insurance policies and all forms to be used by the public pursuant to this Title ~~shall~~ must first be approved as to form by the City Attorney before filing or use.

17.16.140 Acceptance and Release of Property Interests

~~(Added by Ordinance 185398, effective July 6, 2012.)~~

~~**A.** Acceptance by the Bureau of Transportation: The Director of the Bureau of Transportation may approve, accept, and amend a right-of-way dedication, easement, or other real property interest for public improvements to the transportation system of the City when the consideration provided therefor does not exceed \$50,000.~~

~~**B.** Acceptance by the Bureau of Environmental Services: The Director of the Bureau of Environmental Services may approve, accept, and amend a sewer easement or other real property interest for public improvements to the public sewer of the City when the consideration provided therefor does not exceed \$50,000.~~

~~**C.** Release by the Bureau of Transportation: The Director of the Bureau of Transportation may release easements and associated infrastructure no longer needed for the transportation system of the City. This authorization does not extend to the vacation of public rights-of-way, which must comply with City Charter Section 1-104 and Oregon Revised Statutes Chapter 271.~~

~~**D.** Release by the Bureau of Environmental Services: The Director of the Bureau of Environmental Services may release easements and associated infrastructure no longer needed for the public sewer of the City.~~

~~**E.** Rental or Leasing of Real Property or Public Right of Way by the Bureau of Transportation: The Director of the Bureau of Transportation may rent or lease real property or public right of way assigned to the Bureau of Transportation which will not be needed for public use during the term of the rental or lease for any term permitted by statute.~~

~~F. Designation of City Property as Right-of-Way by the Bureau of Transportation: The Director of the Bureau of Transportation, upon approval by other affected Bureaus, may designate City-owned property as public right-of-way for public improvements to the transportation system of the City.~~

Chapter 17.18 General Obligation Improvement Warrants

~~(Chapter added by Ordinance 139575, effective March 13, 1975.)~~

17.18.010 General Obligation Improvement Warrants Authorized.

~~(Amended by Ordinances 140586, 141599, 146747 and 157298, effective May 2, 1985.)~~

Notwithstanding other provisions of this Code, the Council ~~hereby~~ authorizes the financing of local improvements by the issuance of general obligation improvement warrants in accordance with the procedures provided by State law except as otherwise provided ~~herein~~ this Chapter. General obligation improvement warrants may be issued when authorized by ordinance in an amount equal to the indebtedness to be incurred by the City in constructing the local improvement including all costs of land acquisition, advertising, engineering and superintendence fees, and any special preliminary services or studies that may be assessed on benefited property, and an amount equal to the amount to be paid by the City to the contractor for the construction of a local improvement, not exceeding the bid price of each contract plus 15 percent for approved change orders. If the local improvement has not yet been bid and a successful bidder accepted, the engineer's estimate for construction cost may be used.

17.18.020 Procedure for Issuance and Delivery.

~~(Amended by Ordinances 140586, 141599, 146747 and 173295, April 28, 1999.)~~

A. From time to time, the Council may, upon recommendation of the City Treasurer and Responsible Official, call for bids on the interest rate for general obligation improvement warrants on the estimated amount of proposed assessments for local improvement districts authorized or to be authorized. Bids ~~shall~~ must meet the conditions and requirements provided for in the authorizing ordinance.

B. Upon return of bids the Council may award to the highest and best qualified bidder offering the most advantageous interest rate, the full amount of general obligation improvement warrants to be issued for local improvements specified in the ordinance requesting bids. Provided further, the Council may reject any and all bids.

C. The ordinance authorizing the call for bids ~~shall~~ will also authorize the issuance of the general obligation improvement warrants to the successful bidder as determined by the Council, subject to the provisions of this Chapter. Thereafter, the City

Treasurer is authorized to deliver to the successful bidder from time to time as the Treasurer deems necessary general obligation improvement warrants in an amount equal to the indebtedness to be incurred by the City in constructing the local improvement including all costs of land acquisition, advertising, engineering and superintendence fees, and any special preliminary services or studies that may be assessed on benefited property, and an amount equal to the amount to be paid by the City to the contractor for the construction of a local improvement, not exceeding the bid price of each contract plus 15 percent for approved change orders. If the local improvement has not yet been bid and a successful bidder accepted, the engineer's estimate for construction cost may be used.

D. General obligation improvement warrants ~~shall~~will be issued in denominations as stated in the ordinance authorizing call for bids; ~~shall~~will be numbered consecutively; ~~shall~~will be dated the first day of the month in which they are delivered to the successful bidder and ~~shall~~will mature within the time provided by State law. The successful bidder ~~must~~shall pay accrued interest from the date of the warrants to the time of delivery.

E. The City Treasurer ~~shall~~will deposit all proceeds from the issuance of said General Obligation Improvement Warrants in the Improvement Warrant Sinking Fund established in Section 5.04.210 of this Code.

17.18.030 Application of Proceeds.

~~(Amended by Ordinance 146747, effective December 4, 1978.)~~

The proceeds from each series of general obligation improvement warrants issued for a local improvement district construction contract ~~shall~~will be retained in the Improvement Warrant Sinking Fund until payment ~~shall be~~is authorized.

17.18.040 Repayment.

Upon completion of any local improvement contract and the spreading of assessments upon the property benefited ~~thereby~~ the improvement, all proceeds from the collection of unbonded assessments, the sale of improvement bonds, and the foreclosure of improvement liens for unbonded assessments realized from the local improvement with respect to which such general obligation improvement warrants are issued, ~~shall~~will be transferred from the Local Improvement District Assessment Fund created for the particular improvement and placed in the Improvement Warrant Sinking Fund in an account to be applied to the call and payment of such warrants as rapidly as funds are available as provided by statute.

17.18.050 Payment or Bonding Mandatory.

In the event the owner of any property benefited by the construction of a local improvement ~~that which~~ has been financed by the issuance of general obligation improvement warrants ~~shall fail~~s to either pay any assessment upon such property or apply for bonding of such assessment as provided for in Section 17.12.140 of this

Code within 60 days of the time the assessment is due and payable, the Treasurer ~~shall will~~ immediately cause such property to be sold as provided in Charter Section 9-804 and deposit the proceeds of the sale in the Local Improvement District Assessment Fund created for that particular improvement to be transferred to the appropriate account within the Improvement Warrant Sinking Fund.

17.18.060 Provision in Budget.

The Council ~~shall will~~ provide in its budget for the fiscal year in which general obligation improvement warrants will mature such amount for the payment thereof as ~~shall may~~ be estimated or determined to be owing thereon and unpaid at the maturity thereof after application of collections made prior to such maturity as provided in this Chapter. Such monies ~~shall will~~ be placed in the Improvement Warrant Sinking Fund to repay outstanding warrants as needed.

Chapter 17.19 Northwest Transportation Fund

~~(Chapter added by Ordinance 177993, effective November 21, 2003.)~~

17.19.010 Purpose.

The purpose of the Northwest Transportation Fund is to ensure that a source of funding is available to finance the implementation of mitigation measures and the construction of transportation improvements that become necessary when new development causes the use of transportation facilities in the area to intensify.

17.19.020 Applicability.

The Northwest Transportation Fund applies to commercial development in Subdistrict B in the Guild's Lake Industrial Sanctuary Plan District and the area north of NW Pettygrove Street, on sites zoned EX in the Northwest Plan District. For each contribution to the Northwest Transportation Fund, a bonus of one square foot of additional floor area above the 1:1 base floor area ratio (FAR) that may be in non-residential use is earned, up to the maximum total floor area that is allowed on the site. The amount of floor area that is allowed on the site is regulated by Title 33, Planning and Zoning.

17.19.030 Payment.

~~(Amended by Ordinances 182389 and 182760, effective June 5, 2009.)~~

Applicants must remit the Northwest Transportation Fund fee prior to the issuance of building permits.

A. The Northwest Transportation Fund fee of \$2.90 is based upon a cost per square foot of non-residential development up to the amount of floor area allowed by Title 33, Planning and Zoning. Any appeal of the application of the Northwest Transportation Fund fee is to the ~~Director of Transportation~~City Administrator. The

~~Director of Transportation~~City Administrator may establish an appeal fee that will cover the full cost of processing the appeal.

B. The Northwest Transportation Fund fee will be increased or decreased on July 1 of each year. The change will occur automatically, and the new dollar amount will be filed with the City Auditor. The change will be based on the 10-year moving average percentage fluctuation of the Oregon Composite Construction Cost Index. Any increase or decrease that is not a multiple of \$.05 will be rounded to the nearest multiple of \$.05.

C. The Bureau of Transportation is authorized to refund the Northwest Transportation Fund fee, without further Council action, where the non-residential development approved by building permit is not constructed and the building permit is cancelled. There is a charge of \$500 for processing a refund request.

17.19.040 Implementing Regulations.

~~(Amended by Ordinance 182389, effective January 2, 2009.)~~

~~The City Administrator may adopt administrative rules as authorized by Charter. The City Council delegates authority to the Director of the Bureau of Transportation to adopt administrative rules and procedures necessary to implement provisions of this Chapter. All rules relating to this delegated authority shall be filed with the City Auditor and be available for public inspection.~~

17.19.050 Dedicated Account and Appropriate Use of Account.

All monies derived from the Northwest Transportation Fund ~~shall~~will be placed in the Northwest Transportation Fund Account. Funds in the Northwest Transportation Fund ~~shall~~will be used to provide transportation improvements in the area bounded by NW Pettygrove Street, NW Nicolai Street, the I-405 freeway, and NW 27th Avenue or in the immediate vicinity, as need arises. Funds may be used to address existing transportation deficiencies and the transportation impacts of growth. Funds in the Northwest Transportation Fund may be used for purposes that include:

- A.** Transportation analysis
- B.** Design and construction plan preparation
- C.** Permitting
- D.** Right-of-way acquisition, including costs of acquisition or condemnation
- E.** Relocation of public utilities
- F.** Construction of new lanes for vehicular or transit use

- G.** Construction of turn lanes
- H.** Construction of bridges
- I.** Design, purchase and installation of traffic signs and signals
- J.** Design and construction of pedestrian or bicycle facilities
- K.** Design and construction of drainage facilities
- L.** Design and construction of curbs, curb extensions, and medians
- M.** Construction management and inspection
- N.** Surveying and soils and materials testing, including environmental testing
- O.** Landscaping
- P.** Transit facilities
- Q.** Demolition that is part of the construction of any of the improvements
- R.** Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide money to construct or acquire the transportation facilities.
- S.** Administrative costs of establishing, maintaining, and administering the fund.

Chapter 17.23 Special Traffic Control District

~~(Chapter replaced by Ordinance 184957, effective November 25, 2011.)~~

17.23.010 Application.

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

17.23.020 Definitions.

~~(Amended by Ordinance 185397, effective July 6, 2012.)~~

As used in this Chapter, the following terms ~~shall~~ have the following definitions:

- A. "Curb"** ~~shall~~ means the stone or concrete edging along a street or sidewalk.
- B. "Maintenance"** ~~shall~~ means the function of protecting existing facilities within the street area so as to keep those facilities in safe and convenient operating condition. Under this definition, the work would be of a routine nature and would not involve cutting the pavement.

C. “Emergency” ~~shall mean~~^s any unscheduled repair of existing facilities within the street area ~~that 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~~^{es} only immediately required repairs and ~~shall does~~ not include extensive replacement or upgrading of the facility.

17.23.030 Designated Boundary.

The following described Special Traffic Control District will mean and include the following streets in ~~the City~~^{Portland}:

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

17.23.040 Special Jurisdiction.

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

17.23.050 Permits Required.

~~(Amended by Ordinances 187632 and 188692, effective January 1, 2018.)~~

A. Any party desiring to perform work in the street or make use of the street area to perform work on private property ~~shall~~^{must} first obtain a temporary street closure permit as prescribed in Chapter 17.24 of ~~the Portland City Code~~^{of the City of Portland, Oregon}, and pay the permit fees set forth in Chapter 17.24.

B. Any party performing emergency work mustshall notify the City Administrator~~Director of the Bureau of Transportation~~ at the time work is commenced and when finished. Emergency work may be performed without first obtaining the temporary street closure permit outlined in Subsection A. above or without complying with the requirements of Subsection A. above.

C. Any party desiring to perform work that utilizes the street area in the Special Traffic Control District mustshall obtain approval from the City Administrator~~Director of the Bureau of Transportation~~ to schedule their work. Any party desiring to perform work mustshall distribute notice of work to adjacent businesses five days in advance of proposed work dates. A written schedule of work dates and proof of notification to adjacent businesses mustshall be submitted to the City Administrator~~Director of the Bureau of Transportation~~ prior to final approval being granted.

D. The City Administrator~~Director of the Bureau of Transportation~~ may waive minimum notification requirements as listed above in Subsection C. if work is deemed to have minimal impact to the transportation system.

E. Notwithstanding the other provisions of this Section, the City Administrator~~Director of the Bureau of Transportation~~ shall have the authority to may implement additional requirements for permits in the Special Traffic Control District when conditions in the downtown require more stringent regulations.

F. Nothing contained herein this Section shall limits the authority of the City Administrator~~Director of the Bureau of Transportation~~ in maintaining public peace and safety and, upon request from the City Administrator~~Director of the Bureau of Transportation~~ the party performing any work in the street area mustshall reopen the street area to its normal use as determined by the City Traffic Engineer~~Administrator~~.

17.23.060 Traffic Standards.

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

17.23.070 Revocation.

The City Administrator~~Director of the Bureau of Transportation~~ in carrying out the provisions set forth herein this Chapter, may enforce conditions set forth in permits

issued under Section 17.23.050. The ~~City Administrator~~[Director of the Bureau of Transportation](#) may revoke any permit issued under Section 17.23.050 at any time in the event the public's need requires it, the permittee fails to comply with the conditions of the permit, or for any reason ~~that~~[which](#) would have been grounds for denial of the initial permit application.

Chapter 17.24 Permits

~~(Chapter replaced by Ordinance 184957, effective November 25, 2011.)~~

17.24.000 Purpose and Intent.

The purpose and intent of this Chapter is to:

- A. Permit and manage reasonable access to the public right-of-way of the City;
- B. Conserve the limited physical capacity of those public right-of-way held in trust by the City;
- C. ~~As~~[Ensure](#) that all persons owning or operating facilities within the public right-of-way comply with applicable ordinances, rules and regulations of the City;
- D. ~~As~~[Ensure](#) that the City can continue to fairly and responsibly protect the public health, safety and welfare of its citizens.

17.24.005 Jurisdiction and Management of Public Right-of-Way.

- A. The City has jurisdiction and exercises regulatory management over all public right-of-way within the City, as provided under City Charter, ordinances, and Oregon law.
- B. The City has jurisdiction and exercises regulatory management over public right-of-way whether the City has a fee, easement, or other legal interest in the right-of-way, and whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.
- C. No person may occupy or encroach on a public right-of-way without the permission of the City, as provided under ~~Portland City~~[Portland City](#) Code.
- D. The exercise of jurisdiction and regulatory management of a public right-of-way ~~by the City is not official acceptance of the right-of-way, and does not obligate the City to maintain or repair any part of the~~ ~~right-of-way~~[right-of-way](#).
- E. The City retains the right and privilege to immediately require any person to remove, move or otherwise adjust its facilities located within the public rights-of-way whenever, in the determination of the ~~Director of the Bureau of Transportation~~[City Administrator](#), the public need requires it. If the person ordered to remove, move, or

adjust the facility does not do so as directed by the ~~City Administrator~~Director of the Bureau of Transportation the City may remove, move or otherwise adjust such facilities with its own forces or contract forces and the full cost of such removal, movement or adjustment ~~shall~~will be the responsibility of the person responsible for the facility.

F. The Bureau of Transportation ~~shall be~~is the agency responsible for management of the public right-of-way, subject to the approval of the City Administrator.

17.24.010 Permits Required.

~~(Amended by Ordinance 189629, effective August 30, 2019.)~~

A. Any person desiring to make a public improvement, do work in, or use the street area must first obtain a permit from the ~~City Administrator~~Director of the Bureau of Transportation as prescribed in this Chapter, and pay the permit fees set forth in Section 17.24.020, except for maintenance activities allowed without a permit, as set forth in Sections 17.42.020 and 17.42.025.

B. Except as set forth in paragraph E. below, no person ~~shall~~will be granted a permit to install, construct, reconstruct, repair, alter or maintain facilities for the distribution, transmission or collection of sewer, water, gas, petroleum products, steam, electricity, telecommunications, or other service and any associated wires, cables, poles, conduits, appliances or apparatus in, on, over, through or in any manner beneath the surface of the streets unless that person currently possesses a franchise or privilege granted by the City ~~of Portland~~ or is a City bureau charged with providing such service to the public to generate, transmit or provide any such service including but not limited to electricity, telecommunications, natural gas, sewer, water, stormwater, and pipeline services within the City.

C. Except for street or transportation facility construction and maintenance work done by or under contract with ~~Bureau of Transportation~~the City, and except for work allowed to be performed Sections 17.42.020 and 17.42.025, it is unlawful for any person to do any work or perform any act as set forth in this Title without first obtaining a permit. It is unlawful for any person to break up, dig up, cut, excavate or fill in any street or to construct any sidewalk, curb, gutter or to do any work in or upon any street or in any way to tamper with hard surface pavements without first obtaining a permit ~~therefor~~it and paying the fee prescribed in Section 17.24.020. The permit ~~shall~~must be obtained from the ~~City Administrator~~Director of the Portland Bureau of Transportation unless specifically provided otherwise in this Title.

D. The failure of any permittee to comply with ~~any and~~ all permit conditions or related Code and Charter provisions while doing work in the street area ~~shall~~will be reasonable cause for revocation of the permit. Upon revocation of the permit, the City may complete the work and charge such costs to the permittee.

E. Licensed plumbing contractors having a valid plumbing permit to install water service lines and a valid authorization from the [Portland Water Bureau](#)~~City Administrator~~ to connect to a public water meter may obtain permits to install water service lines between the property line and the public water meter.

F. The [City Administrator](#)~~Director of the Bureau of Transportation~~ may issue permits to the Bureau of Environmental Services for street openings to facilitate connections to public sewers and to install, repair and replace sewer mains, laterals, necessary appurtenances and drainage facilities constructed through public and local improvement procedures. The Bureau of Environmental Services ~~must~~shall obtain permits from the [City Administrator](#)~~Director of the Bureau of Transportation~~ for use of the street area in accordance with the schedule of fees set forth in Section 17.24.020.

G. The [City Administrator](#)~~Director of the Bureau of Transportation~~ may issue permits to the Portland Water Bureau for street openings to facilitate connections to the public water system and to install, repair, and replace water mains, laterals, and necessary appurtenances. The Bureau of Water Works ~~must~~shall obtain permits from the [City Administrator](#)~~Director of the Bureau of Transportation~~ for use of the street area in accordance with the schedule of fees set forth in Section 17.24.020.

H. The [City Administrator](#)~~Director of the Bureau of Transportation~~ may issue permits to a Public Utility for street openings to facilitate connections to the public utilities systems and to allow the Public Utility to install, repair, and replace its poles, mains, laterals, and necessary appurtenances. A Public Utility ~~must~~shall obtain permits from the [City Administrator](#)~~Director of the Bureau of Transportation~~ for use of the street area in accordance with the schedule of fees set forth in Section 17.24.020.

I. When immediate repairs to an existing at grade, underground or overhead installation become necessary as the result of an emergency or accident involving public hazard or interruption of service to subscribers or customers, the emergency repairs may be started or made without permit after notice to the [City Administrator](#)~~Director of the Bureau of Transportation~~. The owner of such facilities ~~must~~shall apply for appropriate permits as soon as possible, not to exceed two (2) business days following discovery of the emergency.

J. The [City Administrator](#)~~Director of the Bureau of Transportation~~ may issue permits to Tri-County Metropolitan Transportation District of Oregon (TriMet) for activities not explicitly identified under any existing or future agreements, including the modifications to any existing or future infrastructure to allow for the attachments of telecommunication facilities. TriMet ~~must~~shall obtain permits from the [City Administrator](#)~~Director of the Bureau of Transportation~~ for use of the street area in accordance with the schedule of fees set forth in Section 17.24.020.

17.24.012 Financial Guarantee Required.

A. When issuing permits under this Chapter, the ~~City Administrator~~Director of the Bureau of Transportation may require a construction bond, performance bonds or other form of financial guarantee, ~~approved by the Director of the Bureau of Transportation,~~ as a condition of the permit.

B. The ~~City Administrator~~Director of the Bureau of Transportation may require a maintenance bond, or other financial guarantee, ~~approved by the Director of the Bureau of Transportation,~~ as a permit condition. The maintenance bond or other financial guarantee ~~must~~shall remain in force as long as the person or that person's predecessor has facilities located within the public right-of-way.

C. The acceptable forms and levels of the required financial guarantees ~~shall~~will be established by the ~~City Administrator~~Director of the Bureau of Transportation, as maintained on file in the office of the Bureau of Transportation.

17.24.013 Insurance and Indemnification.

A. Insurance. An applicant for a permit under this Chapter ~~must~~shall procure insurance, the adequacy of which ~~shall~~will be determined by the ~~City Administrator~~Director of the Bureau of Transportation, that names the City as an additional insured entity. The applicant ~~must~~shall supply the City with a certificate providing evidence of that insurance prior to issuance of the permit.

B. Indemnification. As a condition of a permit issued under this Chapter, the applicant ~~must~~shall ~~hold harmless,~~ indemnify, ~~and defend,~~ and hold the City, ~~and~~ its officers, employees, and agents harmless from and against all claims, suits, ~~and~~ actions of whatsoever nature, ~~damages or losses,~~ and all expenses and costs incidental to the defense thereof, including attorney fees, resulting from or arising out of the activities of the applicant, ~~or~~ its officers, employees, agents, ~~and/or~~ contractors under the ~~is~~ permit. In addition, in situations ~~which that~~ occur prior to dedication of the right-of-way, the permittee must acknowledge and assumes all risk of loss ~~which that~~ may arise ~~in the event~~ the City or any other public agency subsequently requires changes in or additions to plans or refuses to approve all or any part of the permittee's improvements.

17.24.014 Permits to Construct and Maintain Structures in the Street Area.

~~(Amended by Ordinances 187403 and 188850, effective April 6, 2018.)~~

A. Except as otherwise provided in ~~Portland City~~this Code, permits to construct, install and/or maintain privately-owned structures in dedicated street area may be issued by the ~~City Administrator~~Director of the Bureau of Transportation only to the owner of the property abutting the half of the street area in which the structure is proposed to be built. Such permits ~~shall~~will be revocable at any time as provided in Section 17.24.016. The burdens and benefits of any such permit ~~must~~shall run with the property abutting the half of the street area in which the structure is proposed to be built and all such permits must~~shall~~ be recorded against the title of the benefitting property except as otherwise specified below. All cost of such recordings must~~shall~~

be borne by the permittee. Upon sale or other disposition of the property, the permit ~~must~~shall automatically transfer to any new property owner, unless the permit specifically states that it is nontransferable.

B. Permits may be issued to parties other than the owner of the abutting property only under the following circumstances:

1. the Director of the Bureau of Transportation has determined that the permittee is an organization with public responsibilities and is of sufficient permanence to carry insurance, liability and maintenance responsibilities for the full life of the permit; or
2. the permittee is the owner of a benefited property against which the permit is recorded, and the underlying property owner of the ~~right of way~~right-of-way has agreed to issuance of the permit; or
3. as otherwise provided for in Section 17.24.010, Chapter 17.25, Chapter 17.26 and Chapter 17.56.

C. The benefits and burdens of permits issued to parties other than the owner of the abutting property ~~must~~shall run with the party or property specified in the permit, other portions of ~~Portland City~~this eCode notwithstanding.

17.24.015 Obligation of Property Owner for Structures in the Street Area.

The owner of any real property ~~shall~~will be responsible for maintaining any structures in the half of the street area abutting the owner's property, whether such structures are under City permit or not, except that the abutting owner ~~shall~~will not be responsible for the maintenance of structures ~~which~~that have been installed by other than the abutting owner under a permit or other authority granted by the City ~~of Portland~~.

The abutting property owner ~~shall~~will be liable to any person who is injured or otherwise suffers damage by reason of the property owner's failure to keep any structure located in the half of the street area immediately abutting his or her property in safe condition and good repair. Furthermore, said abutting property owner ~~shall~~will be liable to the City ~~of Portland, and~~ its officers, agents and employees, for any judgment or expense incurred or paid by the City ~~or~~ its officers, agents, or employees, by reason of the existence of any such structure in the street area.

17.24.016 Permit Revocation.

~~(Amended by Ordinance 188692, effective January 1, 2018.)~~

Permits for structures in City streets, for public improvements, work in, or use of the street area may be revoked by the ~~City Administrator~~Director of the Bureau of Transportation at any time and for any reason the ~~City Administrator~~Director of the

~~Bureau of Transportation~~ deems to be in the interest of the City, and no grant of any permit, expenditure, or money in reliance thereon, or lapse of time ~~shall~~ will give the permittee any right to the continued existence of a structure or to any damages or claims against the City arising out of revocation.

Upon revocation the permittee, or any successor permittee, ~~must~~ shall at ~~the~~ permittee's own cost, remove such structure or equipment associated with work or use of street area within 90 days after written notice to the permittee by the City of such revocation, unless the ~~City Administrator~~ Director of the Bureau of Transportation specifies a shorter period, and ~~must~~ shall return the street area to the condition of the street area immediately surrounding it, to the satisfaction of the ~~City Administrator~~ Director of the Bureau of Transportation. If the permittee does not remove the structure or equipment and/or return the street area to a condition satisfactory to the ~~City Administrator~~ Director of the Bureau of Transportation, the ~~City Administrator~~ Director of the Bureau of Transportation may do so, and the permittee ~~shall~~ will be personally liable to the City for any and all costs of dismantling the structure or equipment and reconstructing the street area. The costs of removal and reconstruction ~~shall~~ will be assessed to the permittee and/or will become a lien upon the abutting property until paid by the permittee. The City may sell or otherwise dispose of structures, equipment or parts thereof removed from the public ~~right of way~~ right-of-way under authority of this Section, and the owner of same ~~shall~~ will not be entitled to any compensation for said items from the City.

17.24.017 Temporary Street Closure.

~~(Amended by Ordinances 185212 and 188850, effective April 6, 2018.)~~

The ~~City Administrator~~ Director of the Bureau of Transportation may close or by permit allow to be closed temporarily any street or portion thereof for the following reasons:

- A.** To facilitate construction, demolition or installation of facilities on public or private property.
- B.** To restrict vehicular use of an unimproved street for the protection of the public or to eliminate a neighborhood nuisance.
- C.** To provide for block parties.
- D.** To provide for community events.

Such closures ~~shall~~ will include the requirements of the City ~~Administrator~~ Traffic Engineer and provide for appropriate insurance as required by the ~~City Administrator~~ Director of the Bureau of Transportation, protecting the public and the City.

17.24.020 Fees and Charges.

The ~~Director of the Bureau of Transportation and/or City~~ Council may establish fees and charges. All fees, charges, civil penalties, and fines established by authority of this Title will be listed in the Portland Policy Documents, as amended annually by Council effective with the fiscal year budget.

If a larger fee is required elsewhere in this Title for any class of permit, the larger fee ~~shall will~~ apply, ~~otherwise,~~ the fees and charges listed in the Portland Policy Documents ~~must shall~~ be paid unless the ~~City Administrator Transportation Director or Council~~ has granted a specific permit for a different fee. All fees, charges, civil penalties, and fines established by authority of this Title will be listed in the Portland Policy Documents, as amended annually by Council effective with the fiscal year budget. All fees for recording permits and other documents with the County Recorder ~~must shall~~ be paid by the property owner or permittee.

17.24.025 Fees for Public Improvement Permits.

~~(Amended by Ordinances 187486 and 188850, effective April 6, 2018.)~~

A. Engineering and superintendence services in connection with public improvement projects ~~shall will~~ be charged in accordance with Portland Policy Document TRN 3.450 – Transportation -Fee Schedule. ~~The~~ Director of the Bureau of Transportation ~~shall will~~ review actual yearly program costs of engineering and superintendence to ensure that only usual and ordinary costs are included and adjust the rates accordingly.

17.24.026 Fees for Review of Land Use Applications.

The ~~Bureau of Transportation Council~~ ~~shall will~~ establish fees ~~which that~~ recover the ~~Bureau of Transportation City's~~ costs of participating in pre-application conferences and reviewing applications for land use approvals ~~which that~~ are required by either Title 33 or Title 34 of ~~Portland City the Code of the City of Portland.~~

A. Policy

1. Fees are not intended to exceed the Bureau of Transportation's average cost of processing the type of review requested or average cost of participating in pre-application conferences.
2. Fees ~~shall will~~ include direct costs and overhead charges.
3. Fee schedules ~~shall will~~ be updated annually and made available in the Portland Policy Documents.

B. Required Fees

1. Each request for a pre-application conference ~~must shall~~ be accompanied by the applicable fee.

2. All land use review applications requested must be accompanied by the applicable fee.

C. Concurrent Applications. When more than one review is requested on the same project, the fee for each review will be charged.

D. Appeal Fees. The process and charges for appeals ~~shall~~will be as set forth in Subsection 33.750.030 C.1. Appeal Fees.

E. Fee Waivers. The Bureau of Transportation will waive its pre-application and review fees in those cases where the Planning Director has granted a fee waiver under the provisions of Section 33.750.050.

F. Refunds. The Bureau of Transportation will refund fees under the following circumstances:

1. **Unnecessary Fee.** When a fee is accepted by staff for a land use review that is later found to not be required, a full refund will be made.

2. **Errors.** When an error is made in calculating the fee, the overpayment will be refunded.

3. **Full Refunds.**

a. If 1 upon receipt of the application by the Bureau of Transportation, it is evident that no transportation review is required, the Transportation review fee will be refunded. The determination of whether a Transportation review is required is at the sole discretion of the City Administrator~~Director of the Bureau of Transportation~~.

b. If the applicant meets the Bureau of Planning's requirements under Subsection 33.750.060 D. for a 50 percent refund and the Bureau of Transportation has not begun its review, the Transportation review will be refunded. Determination of whether to grant the refund is at the sole discretion of the City Administrator~~Director of the Bureau of Transportation~~.

4. **No Refunds.**

a. Appeal fees are not refundable except as set forth in Subsections 33.750.050 B. and 33.750.060 C.2.

b. Pre-application conference fees are non-refundable except as set forth in Subsection F. 1. and 2.

c. No refunds ~~shall~~will be given once a review has begun.

17.24.030 Application for a Public Improvement Permit to construct a Street or Transportation Facility.

(Amended by Ordinance 191736, effective July 1, 2024.)

A. All persons or agencies wishing to construct street or transportation facilities as a public improvement ~~shall~~will make application to the ~~City Administrator~~Director of the Bureau of Transportation for a permit. The application for permit ~~must~~shall contain such information as the ~~City Administrator~~Director of the Bureau of Transportation may designate, and ~~must~~shall specify the nature of the proposed improvement, the name of the street or streets to be improved or in which the improvement is to be located, the location of any off-street improvements, and the construction completion date ~~therefor~~.

B. A public improvement permit for a street or transportation facility within a land division may be issued prior to recording of the final plat only after the following:

1. the improvement plans have been approved by the City ~~Administrator~~Engineer,
2. the final plat, is approvable as determined by ~~the~~ Portland Permitting & Development,
3. any necessary site permits have been obtained from ~~the~~ Portland Permitting & Development,
4. any necessary easements outside the land division have been obtained,
5. the permittee has provided the following:
 - a. Acknowledgment that the construction is on private property ~~which that is to become~~will be subject to an easement for public improvements or public right-of-way and ~~to that will~~ come under public control upon plat and easement recording with the county.
 - b. Authorization for City personnel to enter upon the particular private property for the purpose of testing, inspection and surveying if required, during the course of construction of the public improvements.
 - c. Acknowledgment that City inspection personnel may reject or require correction of work not in accordance with the approved plans and standard specifications, which would prevent future acceptance of the improvements.
 - d. Acknowledgment that all public utilities to be located in public ~~right of way~~right-of-way must be installed prior to final acceptance of the

public street improvements, or as directed by the City Administrator~~Director of the Bureau of Transportation~~.

e. Acknowledgment that the plat and easements must be recorded with the County prior to final acceptance of the public improvements.

f. Agreement that the permittee will hold the City of Portland harmless against any liability which that may occur during construction prior to dedication of the right-of-way~~right-of-way~~ or recording of the easement, and further agreement that the permittee assumes all risk of loss which that may arise in the event the City or any other public agency subsequently requires changes in or additions to plans or refuses to approve all or any part of permittee's improvements.

g. Agreement that the permittee shall will, at the permittee's own expense, maintain the public improvements for a period of 24 months following issuance of a certificate of completion by the City Administrator~~Engineer~~, as assurance against defective workmanship or materials employed in such improvement.

h. Acknowledgment that the issuance of the is permit in no way waives any requirements by the City or any other public agency which that may be associated with the development of the land division.

6. Any~~l~~ other conditions established by the City Administrator~~Director of the Bureau of Transportation and or the City Engineer~~ have been met.

17.24.035 Deposit Required.

Concurrent with making the permit application, the party desiring the permit must shall deposit a sum equal to one-half of the estimated cost of engineering and superintendence as determined by the Director of the Bureau of Transportation~~City Administrator~~ except that when a consultant does the design and survey the deposit shall will be 20 percent of the estimated cost of engineering and superintendence. This deposit must shall be determined by using the appropriate schedule of services found in Section 17.24.070. All deposits must be made prior to any design work being done by the consultant. In the event that no permit is issued for the proposed improvement within 1 year from the time design and plans are reviewed and completed, the City shall will retain the amount of the deposit as compensation for the preparation of design and plans or efforts of review. In the event a permit is issued for the proposed improvement within 1 year from the time such design and plans are completed, the amount of the required deposit shall will be applied to the cost of the permit fee for such improvements.

17.24.040 Refusal of a Public Improvement Permit.

A. A permit application for a public improvement ~~shall~~will be refused when the street grade has not been established, if street grade is applicable directly or indirectly to the proposed improvement, while a proposal to change the grade is pending before the Council, or after plans have been filed with the Council to improve the street.

B. The ~~City Administrator~~Director of the Bureau of Transportation may refuse a permit if, in ~~his/her~~the City Administrator's judgment, the proposed use or improvement:

1. Is not suitable in the circumstances,
2. Will not be uniform with existing or proposed street improvements in the immediate vicinity, or
3. Includes movement of earth from one portion of street to another.

C. The ~~City Administrator may~~City Engineer delegates to the Chief Engineer of the Bureau of Environmental Services authority to refuse a permit or establish permit conditions for modification or repair of any nonconforming sewer or drainage systems within existing or proposed right-of-way.

D. The ~~City Administrator~~Director of the Bureau of Transportation may refuse to issue a permit ~~hereunder~~ this Chapter unless the application is modified as the ~~City Administrator~~Director of the Bureau of Transportation may deem necessary. The ~~City Administrator~~Director of the Bureau of Transportation may require the addition of curbs if a sidewalk improvement is proposed. The ~~City Administrator~~Director of the Bureau of Transportation may require the addition of curbs or sidewalks or both if the proposed improvement is a street improvement. If the ~~City Administrator~~Director of the Bureau of Transportation finds that water main extensions are likely to be needed within 5 years after the completion of a street improvement, the ~~City Administrator may~~Director of the Bureau of Transportation shall refuse issuance of a street improvement permit unless the water main extensions are provided before the completion of a proposed street improvement. If an application is made for a street improvement and the ~~City Administrator~~Director of the Bureau of Transportation finds that public service installations will be needed below the surface of the street or that sanitary or storm drainage is necessary or that underground facilities are needed for future street light installations, the ~~City Administrator~~Director of the Bureau of Transportation may refuse the application unless such installations are included within the proposal or are arranged to be completed prior to the completion of the proposed street improvement.

17.24.050 Contents of Permit.

~~(Amended by Ordinance 188850, effective April 6, 2018.)~~

A. Any permit issued for the construction of a public improvement or use of the street area may contain such conditions as the ~~City Administrator~~Director of the

~~Bureau of Transportation~~ finds appropriate in the public interest. The permit ~~must~~shall specify the kind of work ~~and~~ or use allowed by the permit. The date by which the work is to be completed or, if the permit is for use of the street area, the date the use ~~shall~~will cease, if applicable.

B. The contents of the permit ~~shall~~will include but are not limited to the following items:

1. A requirement for proof of insurance in a form acceptable to the City Attorney. Insurance requirements for use permits will be as specified in TRN-10.21 and per TRN-10.06 Portland in the Streets Administrative Rule.
2. A requirement that the permittee ~~shall~~ be responsible for a 24-month quality assurance period following issuance of a certificate of completion.
3. If the permit is for a local improvement, a requirement for assurance of performance ~~shall be required~~. If the permit is for a use of the street area, the ~~City Administrator~~Director of the Bureau of Transportation may require an assurance of performance if ~~he or she~~the City Administrator determines it is needed to protect the public interest.
4. If the permit is for a local improvement, a schedule setting forth when the permitted activity may begin and the date by which the work will be completed.
5. A requirement that all stated fees and charges or estimated fees and charges have been paid and that the applicant will pay the balance of fees and charges above the estimated cost prior to issuance of a certificate of completion.

17.24.055 Assurance of Performance.

A. Assurance of Performance ~~must~~shall be for a sum approved by the ~~City Administrator~~Director of the Bureau of Transportation as sufficient to cover 100 percent of the cost of design, superintendence, and construction of improvements authorized under permit. Such assurance may, at the discretion of the ~~City Administrator~~Director of the Bureau of Transportation, be in the form of separate assurances covering individual stages of a staged development or covering the installation of various individual improvements rather than a single assurance of performance covering 100 percent of the cost of all improvements to the entire land division. Deposits for engineering and superintendence as required by Title 17 or by Title 5 are in addition to the filing of such assurances of performance.

B. Assurance of performance for public improvements may be in one of the following forms as approved by the City Attorney:

1. Surety bond executed by a company authorized to transact business in the State of Oregon.

2. Irrevocable letter of credit.
3. Set-aside account
4. Cash deposit.
5. City Council passage of a LID Formation Ordinance for a local improvement district.
6. Other forms as approved by the City Attorney.

C. If an applicant for permit fails to carry out the provisions of the application for permit, or the permittee fails to carry out the provisions of the permit, and the City has unreimbursed expenses resulting from such failure, the City ~~shall~~will call on the assurance of performance for reimbursement. If the amount of the assurance of performance exceeds the expenses incurred by the City, ~~it shall~~the City will release the remainder. If the amount of the assurance for performance is less than the expenses incurred by the City, the applicant or permittee ~~shall~~will be liable to the City for the difference. Assurance of performance covering stages or portions of a total development may be released as such stage or portion is completed to the satisfaction of the ~~City Administrator~~Director of the Bureau of Transportation. Twenty percent of all funds deposited as assurance of performance will be retained through the maintenance or quality assurance period; other forms of assurance of performance ~~must~~shall contain written provisions for a similar guarantee through the maintenance period.

17.24.060 Permit Conditions.

~~(Amended by Ordinances 185397 and 188850, effective April 6, 2018.)~~

All work done in streets or other public places ~~must~~shall be done in the location approved by the ~~City Administrator~~Director of the Bureau of Transportation and in accordance with plans and specifications prepared or approved by the City ~~Engineer~~Administrator. The permit may include conditions, and the conditions ~~shall~~will be binding upon the permittee (see Section 17.24.050). All work done ~~shall~~will be subject to the rejection or correction requirements of the City ~~Administrator~~Engineer and subject to the final approval of the City ~~Administrator~~Engineer. Any person or entity performing work in the street area ~~must~~shall:

A. Begin the work promptly and diligently pursue the work until the work is completed;

B. Upon completion of the work, make a written report to the ~~City Administrator~~Director of the Bureau of Transportation detailing the manner in which the work was executed, the location of the work and facilities, and other information regarding the work performed as the ~~City Administrator~~Director of the Bureau of Transportation may request. The report ~~must~~shall be certified as accurately depicting the horizontal and vertical location, size and type of material of all facilities

constructed. The plans need not include details of the nature of the facilities. These plans ~~must~~shall be submitted to the City within sixty (60) days after completion of construction. The Director of the Bureau of Transportation may establish the format of such reports.

C. When there are two or more curbs on the same side of the street centerline, lay all pipes, mains, sewers, conduits, lines, when the same are to run lengthwise in any street, at a distance at least 3-1/2 feet from the curb closest to the street centerline measuring toward the center of the street and at least 2 feet from the curb closest to the street centerline measuring to the outer edge of the street. All connections to the pipes, mains, sewers, conduits, and lines ~~laying~~lengthwise in the street or to any lot ~~must~~shall be installed perpendicular to the curb. In cases where compliance with these regulations would cause unnecessary digging up of pavement, disruption of traffic, place a burden on the street system, or otherwise not be in the best interest of the public, the ~~City Administrator~~~~Director of the Bureau of Transportation~~ may, in their sole discretion, ~~per~~mit ~~and~~ or require the laying of pipes, mains, sewers, conduits, lines, in a different location or manner;

D. Keep all stone, macadam, gravel or other pavement material separate from the excavated earth;

E. Refill any trench or hole that has been dug or opened in any street for the purpose of reaching or laying any sewer, gas, water or other pipe or main within 24 hours after laying or reaching the sewer, gas, water or other pipe or main, or as directed by the ~~Director of the Bureau of Transportation~~~~City Administrator~~, in the following manner:

1. If the street has not been improved with permanent pavement, the earth excavated from the hole or trench ~~must~~shall be refilled and thoroughly compacted until the grade of the roadway previously existing at such trench or hole is reached.

2. If the street has been improved with permanent pavement, the excavated area ~~must~~shall be refilled and compacted to the elevation of the bottom of the permanent pavement, which ~~must~~shall be re-laid compactly and made to conform to the grade, base and quality of the surrounding street pavement.

F. Erect appropriate traffic control devices and protective measures around the work site, and maintain warning lights or other warning devices as required by the ~~Traffic Engineer~~~~City Administrator~~ at or around the work site during the hours between sunset and sunrise so that pedestrians and operators of vehicles may be duly warned of, and protected from the obstruction;

G. Install and maintain erosion control measures as directed by the ~~City Administrator~~~~Director of the Bureau of Transportation~~;

H. Comply with any other directions given by the ~~City Administrator~~~~Director of the Bureau of Transportation~~.

17.24.067 Hazardous Substances.

~~(Amended by Ordinance 185397, effective July 6, 2012.)~~

A. “Utility corridor fill” means fill that:

- 1.** Meets the requirements of the City’s Standard Construction Specifications;
- 2.** May be handled without the need for monitoring of exposure to contaminants under the Oregon OSHA occupational standards for maintenance workers or the use of personal protection equipment above Level D as described in 29 CFR 1910.120;
- 3.** Meets the current DEQ definition of clean fill in OAR 340-093; and
- 4.** The concentrations of any contaminants of concern in the fill material are below the DEQ soil and sediment clean fill screening levels for terrestrial and upland use.

B. “Right-of-way access area” means:

- 1.** The area within a public right-of-way to a minimum depth of five feet below the final street and sidewalk grade and;
- 2.** Any additional depth or width necessary for maintenance of public or private infrastructure including but not limited to sewers, hydrants, meters, conduits and pole bases as required by the ~~City Administrator~~Director of the Bureau of Transportation.

C. “Contaminant barrier”~~means~~ a visual and physical barrier that is of a material, construction and thickness sufficient to minimize transmission of hazardous substances present in the surrounding fill to the utility fill and provide a visual demarcation of the boundary of the utility fill as specified in the City’s standard construction specifications or as approved by the ~~City Administrator~~Director of the Bureau of Transportation with the concurrence of the Director of the Bureau of Environmental Services.

D. In addition to the requirements of this Chapter, permittees ~~must~~shall comply with applicable state and federal laws, regulations and orders concerning hazardous substances including but not limited to their use, storage, handling, disposal, remediation, spill reporting and release reporting.

E. Except as provided in Subsection 17.24.067 H., all fill placed in the right-of-way access area as part of a project permitted under this Chapter ~~must~~shall be utility corridor fill.

F. Permittees ~~must~~shall excavate soil or fill that does not meet the definition of utility corridor fill that is encountered in the right-of-way access area during permitted work and replace it with utility corridor fill.

G. If the soil immediately outside of the right-of-way access area does not meet the definition of utility corridor fill, a contaminant barrier ~~must~~shall be placed between the utility corridor fill and surrounding fill.

H. On a site-specific basis, the ~~City Administrator~~Director of the Bureau of Transportation with the concurrence of the Director of the Bureau of Environmental Services may allow the placement of fill that does not meet the definition of utility corridor fill in the right-of-way access area.

I. If a permittee is required under state, federal or local law to report a spill or release of hazardous substances that occurs at, on, over, under or affects the public right-of-way, the permittee must notify the Bureau of Environmental Services Spill Prevention and Citizen Response Section within 24 hours of such a spill unless otherwise required by state, federal or local law.

J. If a permittee encounters contaminated media within the public right-of-way that poses an imminent threat to human health, the environment, or the waters of the State or requires the use of personal protective equipment above Level D to conduct the permitted work, the Permittee must notify the ~~City Administrator~~Director of Bureau of Transportation and Director of the Bureau of Environmental Services within two business days of encountering the contaminated media.

17.24.070 Engineering and Superintendence for Street and Transportation Facility Public Improvements.

A. The City ~~Administrator~~Engineer shall will:

1. Make all necessary surveys;
2. Mark all grades;
3. Prepare, fix, and prescribe all plans and specifications;
4. Provide engineering provisions and approvals;
5. Test and evaluate all project materials and resources as required;
6. Inspect and approve all work done. At the option of the City ~~Administrator~~Engineer, Subsections 17.24.070 A.1., 2., and 3. above may be done by a professionally registered consulting engineer working under private contract with the permittee.

B. If a permittee, person, or agency seeks to have a public improvement constructed under contract in the name of the City, then the permittee ~~shall~~will be

charged for engineering and superintendence services in an amount equal to the Director of the Bureau of Transportation estimate of the actual costs of such services in accordance with the provisions of Section 5.48.050. This fee ~~must~~shall be paid prior to the issuance of permittee's permit for public improvement.

C. If a permittee, person or agency seeks to have a public improvement constructed under private contract between the permittee and a contractor, or if the permittee desires to do the work personally or have it done under his or her direction, then the permittee ~~shall~~will be charged for engineering and superintendence services in an amount computed as follows below. This fee ~~must~~shall be paid prior to the issuance of permittee's permit for public improvements.

Engineering and superintendence fees:

1. City does design and survey - see Subsection 17.24.025 A.
2. Consultant does design and survey - see Subsection 17.24.025 A.
3. Consultant does design, City does survey - see Subsection 17.24.025 A. plus survey actual costs by authority of Section 5.48.030.

D. If the specifications or other contract documents are not strictly complied with or the work is not completed within the time specified in the permit, the ~~City Administrator~~Director of the Bureau of Transportation ~~shall~~may refuse to accept the work. If the work is refused by the ~~City Administrator~~Director of the Bureau of Transportation, ~~it shall~~the work will not thereafter be accepted unless corrected to conform to plans and specifications and unless approved by the City ~~Council~~Administrator.

17.24.080 Work Done Under Permit.

A. All work done under and in pursuance of a permit ~~must~~shall be under the authorization of the ~~City Administrator~~Director of the Bureau of Transportation, who ~~shall~~will determine the details of the improvement and whose orders in regard to the improvement and the execution of the same ~~must~~shall be obeyed by the applicant for the permit and by the persons doing the work.

B. The ~~Director of the Bureau of Transportation~~City Administrator ~~shall have the authority to~~may refuse issuance of permits for work within the street ~~right of way~~right-of-way to any Person until the requirements of permits previously issued are complied with. This authority includes, but is not limited to, denial of a permit when the applicant is delinquent in payment of fees or City charges for work performed for the applicant by the City or when the applicant has failed to complete work on any previously issued permit or permits.

17.24.085 Original Documents Become the Property of the City.

Any and all plans, specifications, survey notes or other original documents as required by the ~~City Administrator~~Director of the Bureau of Transportation that were either prepared for or produced during the design or construction of a public improvement, become the property of the City and ~~must~~shall be delivered to the ~~City Administrator~~Director of the Bureau of Transportation prior to their acceptance of the improvement ~~by the City Engineer~~.

17.24.090 Certificate by City ~~Engineer~~Administrator.

During the course of construction and prior to the issuance of a certificate of completion for a public improvement under this Chapter, the City Engineer ~~shall~~will inspect the improvement and determine if the various kinds of work performed are in compliance with the plans, specifications and allowances of the permit as to quality of workmanship. Furthermore, the City Engineer ~~shall~~will check the improvement for alignment, proper computation of quantities and conformance with the established grade. If all of the work required is completed and done to the satisfaction of the City Engineer, the City ~~Administrator~~Engineer ~~shall~~will give a certificate ~~therefor~~ to that effect. ~~The City Administrator may and state~~ that the improvement is accepted, if done within the completion date, as ~~hereinabove~~ set forth above, and within recorded public right-of-way and easements. Otherwise, the acceptance may be made by the ~~City Administrator~~Council on the certification of conformity to Code provisions and proper grades filed by the City Engineer.

17.24.100 Street Pavement Preservation.

After any street has been constructed, reconstructed, or paved by City forces, under City contract, or under permit, the pavement surface ~~shall~~may not thereafter be cut or opened for a period of 5 years.

The ~~City Administrator~~Director of the Bureau of Transportation may grant exemptions to this prohibition in order to facilitate development on adjacent properties, provide for emergency repairs to subsurface facilities, provide for underground service connections to adjacent properties or allow the upgrading of underground utility facilities.

When granting exceptions to this regulation, the ~~City Administrator~~Director of the Bureau of Transportation may impose conditions determined appropriate to insure the rapid and complete restoration of the street and the surface paving. Repaving may include surface grinding, base and sub-base repairs, or other related work as needed, and may include up to full-width surface paving of the roadway.

In addition to the street opening permit, any person who is required to partially or fully repave a street ~~must~~shall obtain a street improvement permit and be responsible for the full cost of plan review, construction inspection, material testing, bonding, and all other City expenses related to the work.

If the ~~City Administrator~~Director of the Bureau of Transportation determines that final repaving of the street is not appropriate at that particular time for reasons relating to

weather or other short-term problems, the ~~City Administrator~~[Director of the Bureau of Transportation](#) may grant a delay until proper conditions allow for repaving.

17.24.105 Regulations Governing Excavations and Disturbance of Pavement on Transit Mall

A. Definitions.

1. For the purposes of this Section the Transit Mall is defined as Fifth Avenue and Sixth Avenue from the south line of SW Jackson Street to the north line of NW Irving Street, NW Irving Street from the west line of NW 5th Avenue to the east line of NW 6th Avenue and SW Jackson Street from the west line of SW Fifth Avenue to the east line of SW 6th avenue.
2. Transit Mall Pavement is defined as all surface paving including the curb and any below grade slab or structural element supporting the surface paving located between the curb lines of the Transit Mall.
3. Emergency for the purpose of this section means an unanticipated failure of an existing facility that creates a public hazard or an interruption of service to subscribers or customers that cannot be resolved using other routes or facilities.

B. No person ~~shall~~[may](#) undertake any excavation ~~nor~~ disturb the Transit Mall Pavement except as provided below.

1. Maintenance of the brick pavers, curbs, transit way or asphalt pavement by the City or TriMet.
2. In order to provide for repairs to subsurface facilities made necessary by an emergency.
3. In order to provide a utility service connection to an adjacent property when the utility can demonstrate to the satisfaction of the Director of the Bureau of Transportation that there is no alternative means of providing service to the property.
4. The ~~City Administrator~~[Director of the Bureau of Transportation](#) may allow a public utility to excavate the transit mall pavement for;
 - a. replacement of an underground facility that has reached the end of its useful life or;
 - b. system expansion necessary to meet the public utilities obligation to serve its customers if, in the opinion of the ~~City Administrator~~[Director of Transportation](#), the public utility has adequately demonstrated that no alternative location or means of providing service can adequately meet that need. The cost of

providing service from an alternative location or alternative means ~~shall~~will not be a consideration in the ~~City Administrator~~Director of Transportation's decision.

5. The ~~City Administrator~~Director of the Bureau of Transportation may require that an applicant requesting to do work under the provisions of Subsection 17.24.105 B.4. provide ~~the Director~~ a minimum of two years' advance notice of the need to replace or expand facilities to allow for coordination with any planned major maintenance work to be performed by TriMet, the Portland Bureau of Transportation or another utility with permission to operate within ~~the City of~~ Portland.

C. When granting permits to excavate or disturb Transit Mall pavement, the ~~Director of the Bureau of Transportation~~City Administrator will impose conditions determined appropriate to insure the rapid and complete restoration of the Transit Mall Pavement to the originally constructed pavement section and surfacing.

1. Any person who is required to reconstruct Transit Mall Pavement ~~shall~~must provide engineered plans detailing how the work will be done and the Transit Mall pavement will be restored. The permittee ~~shall~~will be responsible for the full cost of the reconstruction. Full cost includes any City fee's and charges including but not limited to plan review, construction inspection, traffic mitigation, material testing, and all other expenses related to the work incurred by the Portland Bureau of Transportation.

2. If the ~~City Administrator~~Director of the Bureau of Transportation determines that final restoration of the Transit Mall pavement is not appropriate at that particular time for reasons relating to weather or other short-term conflict, the ~~City Administrator~~Director of the Bureau of Transportation may grant or order a delay until proper conditions allow for the restoration to occur.

17.24.110 Record of Permits.

The Director of the Bureau of Transportation ~~shall~~will keep a record of improvements under permit and the issuance of permits under this Chapter, and the date of certificate of approval and acceptance if made.

17.24.120 Removal of Improvement.

In the event ~~the Director of the Bureau of Transportation or the City~~ Council Administrator does not accept an improvement made pursuant to permit under this Chapter within 1 year after completion and tender for approval, then the permittee ~~must~~shall remove the same and restore the public area to its prior condition at the permittee's own expense, whenever and to the extent directed by the City Administrator~~Director of the Bureau of Transportation~~.

17.24.130 Preservation of Cobblestones.

A. As used in this Section, “permit” means a valid permit issued under Section 17.24.010 and “permittee” means a person to whom a permit is issued, or if no permit is required, the person undertaking the work.

B. Cobblestones, also referred to as Belgian building or paving blocks, located in streets of the City are City property and remain City property notwithstanding their excavation by a permittee.

C. It is the duty of the Bureau of Transportation to make available to the permittee a copy of the regulations authorized by this Section.

D. A permittee ~~must~~shall preserve for delivery to the City quantities of 150 or more cobblestones displaced by excavations of City streets. A report of the number and location of the cobblestones ~~must~~shall be sent to ~~the Bureau of Portland Parks & Recreation~~, Operations Division, and ~~the~~ permittee ~~must~~shall deliver the cobblestones to a site as directed by ~~the Bureau of Portland Parks & Recreation~~. The ~~Commissioner of the Bureau of Parks hereby is delegated authority to~~City Administrator may issue additional regulations providing for the preservation of cobblestones excavated from City street areas.

E. At the request of the Portland Historical Landmarks Commission, but not less than once annually, ~~the Bureau of Portland Parks & Recreation shall will~~ advise the Commission of the number of cobblestones then being stored. The deployment of stored cobblestones ~~shall will~~ be determined by the Portland Historical Landmarks Commission ~~(and/or recommended to the City Council)~~. Criteria for deployment ~~shall will~~ be established by the Commission.

Chapter 17.25 Outdoor Dining

~~(Chapter added by Ordinance 150637; Amended by Ordinance 191464, effective September 27, 2023.)~~

17.25.010 Permit Required.

~~(Amended by Ordinances 182870 and 191464, effective September 27, 2023.)~~

Any person desiring to make an improvement, do work in, operate a business, or use the street area for outdoor dining purposes must first obtain a permit from the ~~City Administrator~~Director of the Bureau of Transportation ~~(the “Director”)~~ as prescribed in this Chapter and Administrative Rule TRN-10.04, and pay the permit fees set forth in Section 17.25.030.

17.25.020 Definitions.

~~(Amended by Ordinances 177028, 182870, 184957, 188556, 188850 and 191464, effective September 27, 2023.)~~

A. Outdoor dining. For the purposes of this Chapter, outdoor dining means serving food or beverage from a business located in an adjacent building to patrons standing or seated at tables located within the sidewalk or parking lane areas adjacent to the business; however, the outdoor dining umbrella may also include non-food and beverage vending activities that occur within the sidewalk or parking lane areas.

B. Sidewalk. Sidewalk means that portion of the street between the curb lines or the lateral lines of roadway and the adjacent property lines intended for use by pedestrians and includes all areas of a pedestrian plaza as defined under Chapter 17.43.

C. Parking lane. Parking lane means that portion of the street between the curb lines or the lateral lines of roadway and the adjacent travel lane.

D. Transit mall. As defined in Subsection 17.24.105 A.

E. Clear pedestrian zone. The clear pedestrian zone is the area reserved for travel. No outdoor dining operations are allowed in this area and the area must meet City standards and be free of hazards as described in the Sidewalk Maintenance Program Policy & Operating Guidelines (Portland Policy Document TRN-1.11).

F. Area of operation. Area of operation means the outdoor dining area described in the permit within which the business is allowed outdoor dining privileges.

G. Responsible party. Responsible party means an individual who works on-site at the business and is responsible for overseeing the outdoor dining area of operation, such as the restaurant manager or other person with similar responsibility.

H. Permittee. Permittee means the individual or entity who applied for the outdoor dining permit and to whom the permit is issued. The permittee bears ultimate responsibility for the outdoor dining operation.

17.25.030 Application Fee and Permit Fee.

~~(Amended by Ordinances 177028, 182870, 188850 and 191464, effective September 27, 2023.)~~

Fees for outdoor dining installations are established by the [City Administrator](#)~~Director~~, and are assessed as prescribed in TRN-3.450 – Transportation Fee Schedule. The fees are evaluated and updated annually.

Each application for an outdoor dining permit ~~must~~[shall](#) be accompanied by an application fee. The application fee is nonrefundable and additional to the permit fee. The permit fee ~~must~~[shall](#) be collected prior to issuance of the permit.

17.25.040 Permit Application.

~~(Amended by Ordinances 182870, 188850 and 191464, effective September 27, 2023.)~~

Application for an outdoor dining permit ~~must~~shall be made at the Bureau of Transportation in a form deemed appropriate by the ~~City Administrator~~Director. Such application ~~must~~shall include the information required in TRN-10.04 and on the application form itself.

~~17.25.050 Permit Requirements.~~

~~(Repealed by Ordinance 191464, effective September 27, 2023.)~~

~~17.25.060 Location Rules and Review.~~

~~(Repealed by Ordinance 191464, effective September 27, 2023.)~~

17.25.070 Liability and Insurance.

~~(Replaced by Ordinance 182870; Amended by Ordinances 188850 and 191464, effective September 27, 2023.)~~

Insurance is required pursuant to TRN-10.21 Insurance Requirements for Permits in the Public Right-Of-Way.

~~17.25.080 Form and Conditions of Permit.~~

~~(Repealed by Ordinance 191464, effective September 27, 2023.)~~

17.25.090 Denial, Revocation or Suspension of Permit.

~~(Amended by Ordinances 182870 and 191464, effective September 27, 2023.)~~

A. The ~~City Administrator~~Director may deny, revoke, or suspend any outdoor dining permit authorized in ~~the City of~~ Portland if it is found:

1. That the provisions of this Chapter have been violated.
2. The permittee does not have insurance ~~that~~which is correct and effective in the minimum amount prescribed in Section 17.25.070.

B. Upon denial or revocation, the ~~City Administrator~~Director ~~shall~~will give notice of such action to the applicant, responsible party, or permittee in writing stating the action ~~that~~which has been taken and the reason ~~therefor~~it. The action ~~shall~~will be effective upon giving such notice to the applicant, responsible party, or permittee. Any denial or revocation may be appealed as prescribed in Section 17.25.100 within 20 calendar days of such notice.

17.25.100 Appeal.

~~(Replaced by Ordinance 182870; Amended by Ordinance 191464, effective September 27, 2023.)~~

If an application for an outdoor dining installation is denied, revoked, or suspended because it does not meet the requirements described in this Chapter or Administrative Rule TRN-10.04, an applicant must first request a reconsideration conference with PBOT's Community Use Permitting Section Supervisor ("Supervisor") to afford the applicant an opportunity to present additional information that may not have been considered by the City or to correct factual errors. The City will reconsider the application with the new or corrected information. The request must be submitted in writing to the Supervisor within the time provided in Subsection 17.25.090 B. Any applicant aggrieved by the Supervisor's determination may appeal that determination to the Code Hearings Officer as provided in Chapter 22.10 of this Code. There is no filing fee.

17.25.110 Enforcement.

~~(Added by Ordinance 188850; Amended by Ordinance 191464, effective September 27, 2023.)~~

The ~~Director, or designee, City Administrator~~ shall ~~retain the right to~~ inspect and enforce permit compliance related to rules and regulations. Enforcement of rules and regulations shall will be in accordance with TRN-8.14 (Right-Of-Way Use Enforcement Program).

Chapter 17.26 Sidewalk Vendors

~~(Chapter replaced by Ordinance 154042, effective January 1, 1983.)~~

17.26.010 Conducting a Business on City Sidewalks Unlawful without Permit.

No person ~~shall~~ may conduct business as ~~herein~~ defined in this Chapter on any City Portland sidewalk without first obtaining a permit from the ~~Office of the City Administrator~~ Engineer and paying the required fee. It ~~shall be~~ is unlawful for any person to sell any goods or services on any sidewalk within ~~the City of~~ Portland except as provided by this Chapter.

17.26.020 Definitions.

~~(Amended by Ordinances 164492, 177028 and 188556, effective August 16, 2017.)~~

A. "Conduct business." Conduct business means the act of selling or attempting to sell services, or edible or nonedible items for immediate delivery.

B. "Sidewalk." Sidewalk means that portion of the street between the curb lines or the lateral lines of a roadway and the adjacent property line intended for the use of pedestrians and includes all areas of a pedestrian plaza as defined under Chapter 17.43.

C. “Commercial zone.” Commercial zone means abutting property ~~that~~which is zoned C, Commercial, or E, Employment, pursuant to Title 33, Planning and Zoning, of this Code or any other zone ~~that~~which may be created as a successor zone to such existing commercial zones.

D. “Permit operating area.” Permit operating area means the sidewalk from the midpoint of one block face to the midpoint of an adjacent block face.

E. “Special events.” Special events mean an event specifically approved by an individual ordinance or permit granting use of street and sidewalk areas within a specifically defined area for a period of time not exceeding 10 days to a community-based organization.

17.26.030 Item for Sale.

~~(Amended by Ordinance 167130, effective November 24, 1993.)~~

The City ~~Administrator~~Engineer ~~shall~~will maintain a list of items and services ~~that~~which are either approved or prohibited for sale from sidewalk vending carts. Any item or service not on the list may be considered for approval based on the following criteria:

A. All items or services to be sold must:

1. Be vended from a regulation size vending cart;
2. Not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk;
3. Involve a short transaction period to complete the sale or render the service;
4. Not cause undue noise or offensive odors;
5. Be easily carried by pedestrians.

Requests to have an item or service considered for approval ~~must~~shall be submitted in writing to the City ~~Administrator~~Engineer who ~~shall~~will determine whether the item or service conforms to the above criteria. If the item or service conforms to the above criteria, it ~~shall~~will be listed as approved for sale by sidewalk vendors. If the item or service does not conform, it ~~shall~~will be listed as prohibited for sale by sidewalk vendors. The decision of the City ~~Administrator~~Engineer if adverse to the party making the request, may be appealed to the Council.

17.26.040 Permit Fee.

~~(Amended by Ordinance 182760, effective June 5, 2009.)~~

Each application for a permit to conduct business on a sidewalk ~~must~~shall be accompanied by an application fee. The application fee is nonrefundable and additional to the permit fee. The permit fee ~~must~~shall be collected prior to issuance of the permit. The permit fee between September 1st and December 31st ~~shall be~~is 30% of the yearly permit fee. Permits renewed prior to expiration do not require an application fee.

17.26.050 Application for Permit.

~~(Amended by Ordinances 165594, 182760 and 188850, effective April 6, 2018.)~~

Application for a permit to conduct business on a sidewalk ~~must~~shall be made at the office of the City ~~Administrator~~Engineer on a form deemed appropriate by the City ~~Administrator~~Engineer. Such application ~~must~~shall include but not be limited to the following information:

- A. Name and address of the applicant;
- B. The expiration date of applicant's City business license;
- C. Type of items sold or services rendered. Individual applications ~~shall~~will be accepted for one type of product or service only.
- D. A valid copy of all necessary permits required by State or local health authorities;
- E. Insurance is required pursuant to TRN-10.21 Insurance Requirements for Permits Issued by Street Systems Management.
- F. Means to be used in conducting business including but not limited to a description of any vending cart, to be used for transport or to display approved items or services.
- G. A separate application ~~shall be~~is required for each vending cart to be used for transportation or display;
- H. The proposed location for conducting business and the written consent of the property owner(s) adjacent to the permit operating area, along with a signed statement that permittee ~~shall~~will hold ~~harmless~~the adjacent property owner(s) ~~harmless~~ for any claims for damage to property or injury to persons ~~that~~which may be occasioned by any activity carried on or under the permit. This consent and hold harmless statement must be submitted on a form deemed appropriate by the City ~~Administrator~~Engineer. No application ~~shall~~may apply to more than one location. No application will be accepted for a permit operating area within which a current permit has been issued or an application is pending. Valid 1982 permits ~~that~~which allowed two carts within a permit operating area may apply for renewal provided they have not lapsed or been revoked.

I. No food vendor application will be accepted for a permit operating area where a restaurant or fruit and vegetable market, with direct access to the sidewalk, is adjacent or within 100 feet on the same block. No application will be accepted for a flower vendor for a permit operating area where a flower shop, with direct access to the sidewalk, is adjacent or within 100 feet on the same block. The above requirement may be waived if the application is submitted with the written consent of the proprietor of the restaurant, fruit and vegetable market or flower shop. The consent must be submitted on a form deemed appropriate by the City ~~Administrator~~Engineer.

This provision is not an exception to the location and distance prohibitions included in Section 16.70.550 of ~~the Portland City Code of the City of Portland~~, and no application ~~shall will~~ be accepted for a location ~~that which~~ would be in violation of that Section.

17.26.060 Location Selection.

A. Permit operating areas ~~that which~~ have not been issued a current permit ~~shall be are~~ available only upon receipt of the written consent of the property owners adjacent to the permit operating area.

B. No vendor or vending business may obtain permits for adjacent permit operating areas on the same block. Valid 1982 permits are exempt from this restriction provided they have not lapsed or been revoked.

C. The City ~~Administrator~~Engineer may establish an additional permit operating area on a block face ~~that which~~ exceeds 300 feet in length.

17.26.070 Location Review.

Upon receipt of an application for a permit, the City ~~Administrator~~Engineer shall will review the proposed permit operating area to determine if the said area is suitable for sidewalk vending. In making this determination, the City ~~Administrator~~Engineer shall will consider the following criteria:

A. The permit operating area must be within a commercial zone.

B. The use of the permit operating area for sidewalk vending must be compatible with the public interest in use of the sidewalk areas as public right-of-way. In making such determination the City ~~Administrator~~Engineer shall will consider the width of sidewalk, the proximity and location of existing street furniture, including, but not limited to, signposts, lamp posts, parking meters, bus shelters, benches, phone booths, street trees and newsstands, as well as, the presence of bus stops, truck loading zone, taxi stands or hotel zones to determine whether the proposed use would result in pedestrian or street congestion.

The City ~~Engineer~~Administrator shall will inform the applicant whether the proposed permit operating area is suitable or unsuitable. ~~In the event the applicant is~~

~~dissatisfied with the City Engineer's decision regarding a certain application, he may appeal the decision to the Commissioner In Charge.~~ The decision of the ~~Commissioner~~City Administrator, if adverse to the applicant or any notified party, may be appealed to the City Council.

17.26.080 Payment for Written Consent is Unlawful.

No person or corporation ~~shall~~may either pay or accept payment for written consent required for the issuance or continued operation of a sidewalk vending permit.

17.26.090 Design Review.

~~(Amended by Ordinances 176955, 177028, 182760 and 191736, effective July 1, 2024.)~~

A. The applicant for a sidewalk vendor permit ~~must~~shall submit detailed scale drawings of the cart to be used, material specifications, and an isometric drawing in color of at least two views showing all four sides of the vending cart and any logos, printing or signs ~~that~~which will be incorporated and utilized in the color scheme. The City ~~Administrator~~Engineer ~~shall~~will submit the isometric drawings of the vending device to ~~the~~Portland Permitting & Development for approval prior to issuing a permit. Vending carts ~~shall~~must be measured by the City ~~Administrator~~Engineer prior to the issuance of a permit or the renewal of a sidewalk vendor's permit to ensure compliance with Section 17.26.090 A of this Chapter.

B. ~~The~~Portland Permitting & Development ~~shall~~will furnish the City ~~Administrator~~Engineer standards required by the Portland Design Commission to be incorporated in the sidewalk vendors application packet.

17.26.100 Fire Marshal Inspection.

~~(Amended by Ordinance 182760, effective June 5, 2009.)~~

~~Prior to the issuance of any permit, the Fire Marshal~~ ~~shall~~will inspect and approve any vending cart to assure the conformance of any cooking or heating apparatus with the provisions of the City Fire Code.

17.26.110 Application Time Limit.

~~(Amended by Ordinance 182760, effective June 5, 2009.)~~

~~The~~applicant must complete all reviews, inspections and present all required documents to the City ~~Administrator~~Engineer within 60 days from date of location approval. Failure to meet this requirement ~~shall~~may result in cancellation of the application and forfeiture of the application fee. The City ~~Administrator~~Engineer may extend this time limit, upon written request and a finding of reasonable need.

17.26.120 Form and Condition of Permit.

The permit issued ~~shall will~~ be in a form deemed suitable by the City ~~Administrator~~Engineer. In addition to naming the permittee and other information deemed appropriate by the City ~~Administrator~~Engineer, the permit ~~shall will~~ contain the following conditions:

- A. Each permit will expire at midnight, December 31st of the year issued;
- B. The permit issued ~~shall will~~ be personal only and not transferable in any manner;
- C. The permit is valid only when used at the permit operating area designated on the permit. The permit operating area may be changed by submitting a new letter of consent accompanied by an additional application fee;
- D. The permit is valid for one cart only;
- E. The location within the permit operating area may be changed, either temporarily or permanently, by written notice of the City ~~Administrator~~Engineer;
- F. The permit is subject to the further restrictions of this Chapter;
- G. The permit as it applies to a given permit operating area may be suspended by the Council for a period up to 10 days when an ordinance providing for a "community event" ~~shall~~ so provides.

17.26.125 Renewal of Permits.

Application for renewal of permits ~~must shall~~ be received from November 1st through December 31st. An application ~~must shall~~ be on a form deemed suitable to the City ~~Administrator~~Engineer, accompanied by a permit fee. Applications received after December 31st ~~shall will~~ be processed as new applications. The City ~~Administrator~~Engineer ~~shall will~~ review each application to determine that:

- A. Any required consent has not been withdrawn;
- B. The applicant has a currently effective insurance policy in the minimum amount provided in Section 17.26.050 E;
- C. All required permits are current;
- D. The cart size is in conformance with Section 17.26.130 E. If the City ~~Administrator~~Engineer finds that the application meets all the above requirements, ~~he shall~~the City Administrator may issue a new permit.

17.26.130 Restrictions.

~~(Amended by Ordinances 182760 and 185397, effective July 6, 2012.)~~

A. Any person conducting business on the sidewalks of ~~the City of~~ Portland with a valid permit issued under this Chapter may transport and/or display approved items or services upon any vending cart, under or subject to the following conditions:

1. The operating area ~~shall~~may not exceed 24 square feet of sidewalk, which must ~~shall~~ include the area of the vending cart, and, when externally located, the operator and trash receptacle.
2. The length of the vending cart ~~shall~~may not exceed 6 feet.
3. The height of the vending cart, excluding canopies, umbrellas, or transparent enclosures, ~~shall~~may not exceed 5 feet.

B. No person may conduct business on a sidewalk in any of the following places:

1. Within 10 feet of the intersection of the sidewalk with any other sidewalk, except that the City ~~Administrator~~Engineer may waive this restriction in writing for any location upon finding that construction of extra-width sidewalks makes such use consistent with the standards established by Section 17.26.070.
2. Within 8 feet of the adjacent property line;
3. Within 10 feet of the extension of any building entrance or doorway, to the curb closest to the property line.
4. Within 10 feet of any handicapped parking space, or access ramp.

C. All persons conducting business on a sidewalk must display in a prominent and visible manner the permit issued by the City ~~Administrator~~Engineer under the provisions of this Chapter and conspicuously post the price of all items sold.

D. All persons conducting business on a sidewalk must pick up any paper, cardboard, wood or plastic containers, wrappers, or any litter in any form ~~that~~which is deposited by any person on the sidewalk or street within 25 feet of the place of conducting business. Each person conducting business on a public sidewalk under the provisions of this Chapter must~~shall~~ carry a suitable container for placement of such litter by customers or other persons.

E. All persons s conducting business on a sidewalk must~~shall~~ obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of the sidewalk or remove ~~his-the~~ vending cart entirely from the sidewalk if necessary to avoid such congestion or obstruction.

F. No person ~~shall~~may conduct business as defined ~~herein~~ this Chapter at a location other than that designated on ~~his-a~~ permit.

G. No permittee ~~shall~~may make any loud or unreasonable noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to the permittee's wares.

H. No permitted vending cart ~~shall~~may be left unattended on a sidewalk ~~nor~~ remain on the sidewalk between midnight and 6 a.m.

I. No permittee ~~shall~~may conduct business in violation of the provisions of any ordinance providing for a special event.

17.26.140 Special Event Designation.

~~(Amended by Ordinance 182760, effective June 5, 2009.)~~

The special event designation allows vendors to conduct business on City sidewalks at the Rose Festival parades and other major special events that the City ~~Administrator~~Engineer ~~shall~~ so designates, subject to the following conditions:

A. Application ~~must~~shall be made to the City ~~Administrator~~Engineer on a form deemed appropriate by the City ~~Administrator~~Engineer. Each application ~~must~~shall apply to only one event or parade. Application is open to any vendor who possesses a valid sidewalk vending permit. Each application ~~must~~shall be accompanied by:

1. All necessary permit fees.

2. The proposed location for conducting business along with the temporary written consent of the property owners adjacent to the permit operating area. This temporary consent must be on a form deemed appropriate by the City ~~Administrator~~Engineer. No application will be accepted for a permit operating area within which a permit has been issued or an application is pending.

B. Application must be made at least 5 working days prior to an event to qualify for participation.

C. All temporary locations ~~must~~shall be on side streets adjacent to the parade or event.

D. Temporary locations are valid only for the date and hours specified by the City ~~Administrator~~Engineer.

E. All other conditions of this Chapter, except as ~~herein~~ stated in this Chapter, ~~shall~~ remain in effect.

17.26.150 Denial, Suspension or Revocation of Permit.

~~(Amended by Ordinance 182760, effective June 5, 2009.)~~

A. The City ~~Administrator~~Engineer may revoke or suspend the permit, or deny either the issuance or renewal thereof, of any person to conduct business on the sidewalks of ~~the City of~~ Portland based on the following findings:

1. that such person has violated or failed to meet any of the provisions of this Chapter;
2. that the cart operation has become detrimental to surrounding businesses and/or the public, due to either appearance or condition of the cart.
3. any required permit has been suspended, revoked or canceled; or
4. the permittee does not have a currently effective insurance policy in the minimum amount provided in Section 17.26.050 E.

B. Upon denial, suspension or revocation, the City ~~Administrator~~Engineer ~~shall will~~ give notice of such action to the permit holder or applicant, as the case may be, in writing stating the action the City ~~Administrator~~Engineer has taken and the reasons ~~therefor~~ the denial, suspension, or revocation. If the action of the City ~~Administrator~~Engineer is a revocation based on Subsections A.3. and 4. of this Section, the action ~~shall will~~ be effective upon giving such notice to the permittee, ~~or~~ Otherwise, such notice ~~shall will~~ contain the further provision that it ~~shall will~~ become final and effective within 10 days. Any revocation effective immediately may also be appealed to the Council by such filing within 10 days. Any revocation, suspension or denial may be appealed to the City Council by filing a written notice of appeal with the City Auditor within 10 days of receipt of notification.

17.26.160 Appeal.

The Auditor ~~shall will~~ place the appeal on the Council calendar at the first convenient opportunity ~~therefor~~ it and ~~shall will~~ notify the City ~~Administrator~~Engineer ~~thereof~~ it. At the hearing upon appeal, the Council ~~shall will~~ hear all witnesses including the City ~~Engineer~~Administrator or ~~his~~ their representative, who ~~shall will~~ state the grounds for this action, and the applicant or person whose permit has been revoked or suspended may supply testimony in writing by witnesses or otherwise and may question witnesses on ~~his~~ their own behalf or on behalf of the City. The Council ~~shall will~~ hear and determine the appeal and the decision of the Council ~~shall will~~ be final and effective immediately.

17.26.170 Penalty for Violation.

Any person violating any of the provisions of this Chapter ~~shall will~~, upon conviction ~~thereof~~, be punished by a fine not exceeding \$500 or by imprisonment for a period not exceeding 6 months, or by both such fine and imprisonment. In the event that any provisions of this Chapter ~~is are~~ violated by a firm or corporation, the officer or officers, or the person or persons responsible for the violation ~~shall will~~ be subject to the penalty ~~herein~~ provided by this Section.

17.26.180 Violation a Nuisance, Summary Abatement.

~~(Amended by Ordinance 182760, effective June 5, 2009.)~~

The placement of any vending cart on any sidewalk in violation of the provisions of this Chapter is declared to be a public nuisance. The City ~~Administrator~~Engineer may cause the removal of any vending cart found on a sidewalk in violation of this Chapter and is authorized to store such vending cart until ~~the its~~ owner ~~thereof shall~~ redeems it by paying the removal and storage charges ~~therefore to be~~ established by the ~~Commissioner In Charge~~City.

Chapter 17.27 Structural Driveways

~~(Chapter replaced by Ordinance 184957, effective November 25, 2011.)~~

17.27.200 Structural Driveway Defined.

A structural driveway is any structure intended to provide vehicular access to parking and maneuvering space on private property from a public right of way.

17.27.205 Structural Driveways in Public Streets.

The ~~City Administrator~~Director of the Bureau of Transportation may grant a revocable permit to an abutting property owner for the construction and maintenance of a structural driveway within a public street if in the ~~City Administrator~~Director of the Bureau of Transportation's judgment there is no other available means of obtaining vehicular access to a structure on abutting private property.

17.27.210 Permit Application.

The applicant ~~must~~shall submit to the ~~City Administrator~~Director of the Bureau of Transportation two complete site plans, two sets of structural plans and calculations bearing the registration stamp and signature of an engineer licensed in the State of Oregon to design structures, and a non-refundable application fee of \$250. The ~~City Administrator~~Director of the Bureau of Transportation may require the applicant to submit a complete geotechnical report and any recommendations made in connection with such report may be required.

17.27.220 ~~Engineer's~~ City Administrator's Review.

A. The City ~~Administrator~~Engineer will review the application to determine compliance with design standards, possible conflicts with public facilities, and compatibility with existing or future street plans. If in the course of the review, the City ~~Administrator~~Engineer determines that modifications to the proposed plan are necessary, the applicant ~~must~~shall make the requested modifications and resubmit the plan to the City ~~Administrator~~Engineer with all required corrections.

B. The decision of the City ~~Administrator~~Engineer as to the suitability of the proposed location, materials used, technical requirements of specifications and plans ~~shall~~will be final and conclusive.

17.27.230 Design Standards.

A. Load ratings and structural design ~~must~~shall be in accordance with the most current edition of the Standard Specifications for Highway Bridges published by the American Association of State Highway and Transportation Officials (AASHTO) in effect at the time of permit issuance or such alternative specifications as are adopted by the City ~~Administrator~~Engineer.

B. Structural driveways ~~must~~shall have a minimum load rating of H-15 except that in cases where the structural driveway accesses only one single family residential structure from a Local Service Traffic Street as defined by the Transportation Element of the Comprehensive Plan, the City ~~Administrator~~Engineer may allow a structural driveway in conformance with Uniform Building Code standards if, in the opinion of the City ~~Administrator~~Engineer, the circumstances are such that the lower rating will not create a hazard to the public or users of the structural driveway and permanent vehicle barriers are installed to prevent access to the structure by vehicles exceeding eight feet in height.

C. The City ~~Administrator~~Engineer may require vehicle barriers, railings, and other appurtenances in excess of AASHTO standards and higher load ratings if in the City ~~Administrator~~Engineer's opinion such appurtenances are necessary to protect the public and users of the structural driveway.

17.27.240 Permit.

A. Permits for structural driveways will be issued only to the owner of the property abutting the half of the street area in which the structural driveway is proposed to be built. The burdens and benefits of any such permit ~~shall~~will run with the property abutting the half of the street area in which the structural driveway is proposed to be built. Upon sale or disposition of the property, the permit ~~shall~~will automatically transfer to any new owner of the property, except when the permit specifically prohibits such transfer.

B. The abutting property owner ~~shall~~will be liable to any person who is injured or otherwise suffers damage by reason of the property owners use of the street area. Furthermore, ~~said the~~ abutting property owner(s) ~~shall~~will be liable to the City ~~of Portland~~ for any judgment or expense incurred or paid by the City by reason of the existence of a structural driveway in the street area.

C. This permit ~~shall~~will be for the use of the street area only, and ~~shall~~will not exempt the permittees from obtaining any license or permit required by ~~Portland the~~ City Code or Ordinances for any act to be performed under this permit, nor ~~shall~~will this permit waive the provisions of ~~any Portland~~ City Code, ~~On an~~ ordinance, or the City Charter, except as ~~herein~~stated ~~in this Chapter~~.

D. The conditions in a permit for a structural driveway are burdens upon the abutting property, which ~~shall~~will run with the land, and the permit ~~must~~shall be recorded with the Multnomah County Records Division, and the cost of recording ~~must~~shall be paid by the applicant.

17.27.250 Revocation of Permit.

A. A structural driveway permit may be revoked by the ~~City Administrator~~Director of the Bureau of Transportation:

1. Upon determination of a public need for the area;
2. If the structural driveway is in conflict with any public improvement plan;
3. If the permittee fails to maintain the structure to the City ~~Administrator~~Engineer's satisfaction;
4. If the permittee allows a dangerous condition, as determined by the City ~~Administrator~~Engineer, to continue for more than twenty days after being given notice to correct the condition; or
5. Upon failure to comply with any condition of the permit.

B. The City Council may revoke any structural driveway permit for any reason the Council determines to be in the best interest of the City.

C. No grant of any permit, expenditure of money in reliance thereon, or lapse of time ~~shall~~will give the permittee any right to the continued existence of a structure or to any damages or claims against the City arising out of revocation.

17.27.260 Removal of Structural Driveways.

Upon revocation of the permit, the permittee or any successor permittee, ~~must~~shall at permittee's own cost, remove such structure within 30 days after written notice to the permittee by the City of such revocation, unless the City Council specifies a shorter period, and ~~must~~shall return the street area in which the structure was located to the condition of the street area immediately surrounding it, to the satisfaction of the ~~City Administrator~~Director of the Bureau of Transportation. If the permittee does not remove the structure and/or return the street area to a condition satisfactory to the ~~City Administrator~~Director of the Bureau of Transportation, the ~~City Administrator~~Director of the Bureau of Transportation may do so, and the permittee ~~shall~~will be personally liable to the City for any and all costs of dismantling the structure and reconstructing the street area. The costs of removal and reconstruction ~~shall~~will become a lien upon the abutting property until paid by the permittee.

17.27.270 Fees.

The fee for plan review, permit issuance, and any City inspection of structural driveways ~~shall be~~ the full cost incurred by the City for such services. The minimum fee ~~shall be~~ \$250. If full cost ~~will exceed~~ \$250, the applicant ~~must~~ pay any additional costs prior to issuance of the permit. Amounts paid by the applicant in excess of full City costs, ~~that~~ which exceed the \$250 minimum fee, will be refunded to the applicant.

17.27.280 Inspection of Construction Required.

The City ~~Administrator~~Engineer may inspect the construction; require the permittee to retain the services of a special inspector who will submit inspection reports directly to the City ~~Administrator~~Engineer, or a combination of the above. It ~~shall be~~ the permittee's responsibility to obtain the required inspections and failure to do so is grounds for revocation of the permit.

Chapter 17.28 Sidewalks, Curbs and Driveways

~~(Chapter replaced by Ordinance 167684, effective May 18, 1994.)~~

17.28.010 Sidewalk Defined.

~~(Amended by Ordinance 177028, effective December 14, 2002.)~~

A "sidewalk" means the portion of the street intended for the use of pedestrians. Unless the street area has been designated as a pedestrian mall, or unless the entire street has been designated primarily for pedestrian use, for the purpose of this Chapter, "sidewalk" is that part of a street on the side thereof intended for the use of pedestrians, improved by surfacing.

17.28.011 Planting and Parking Strip Defined.

~~(Added by Ordinance 184957; amended by Ordinance 185397, effective July 6, 2012.)~~

"Planting Strip" and "Parking Strip" means the area between the curb, or in the case where there is no curb the edge of the roadway, and the abutting property line not improved by surfacing that is intended for the use of pedestrians. Any openings made in a surfaced area between the roadway and the abutting property line for the purpose of planting trees or other vegetation ~~shall be~~are considered part of the planting or parking strip. Grates or other coverings of said areas ~~shall be~~are not be considered as surfacing intended for the use of pedestrians.

17.28.015 Owner Defined.

"Owner" means the owner of the real property or the contract purchaser of real property of record as shown on the last available assessment roll in the office of the county assessor.

17.28.020 Responsibility for Sidewalks and Curbs.

~~(Amended by Ordinances 182760, 183397 and 184957, effective November 25, 2011.)~~

A. The owner(s) of land abutting any street in ~~the City~~ Portland ~~shall beare~~ responsible for constructing, reconstructing, maintaining and repairing the sidewalks, curbs, driveways and parking strips abutting or immediately adjacent to said land, except as provided in Subsections B. and C. ~~Said The~~ property owner(s) ~~shall beare~~ liable for any and all damages to any person who is injured or otherwise suffers damage resulting from the defective condition of any sidewalk, curb, driveway or parking strip adjacent to said land, or by reason of the property owner's failure to keep such sidewalk, curb, driveway or parking strip in safe condition and good repair. ~~Said The~~ property owner(s) ~~shall beare~~ liable to the City ~~of Portland~~ for any amounts ~~that which~~ may be paid or incurred by the City by reason of all claims, judgment or settlement, and for all reasonable costs of defense, including investigation costs and Attorney fees, by reason of ~~said the~~ property owners' failure to satisfy the obligations imposed by the Charter and Portland City Code ~~of the City of Portland~~ to maintain, construct, and repair such sidewalks, curbs, driveways and/or parking strips.

B. Curbs ~~shall beare~~ maintained by the City, except when in combination with the sidewalk and when they have been willfully damaged or damaged by tree roots. Intersection corners and curbs adjacent ~~thereto~~ them may be installed by the City when sidewalks and curbs are constructed up to the intersection on the same side of the street.

C. Green street or other public stormwater management facilities located within the right of way ~~shall may~~ be modified or repaired only by the City or under an appropriate permit from the ~~Bureau of Environmental Services~~ City Administrator.

D. The City ~~Administrator~~ Engineer ~~shall will~~ maintain general construction and maintenance specifications for sidewalks, curbs, driveways and/or parking strips. The City ~~Administrator~~ Engineer ~~shall will~~ use the specifications to determine compliance with this Chapter of Code. The ~~City Administrator~~ Director of the Bureau of Transportation ~~shall will~~ provide copies of the specification to any person upon request, and make the specifications available for public inspection during normal office hours.

17.28.025 Property Owner Responsible for Snow and Ice on Sidewalks.

~~(Added by Ordinance 176585, effective July 5, 2002.)~~

A. The owner(s) and/or occupant(s) of land adjacent to any street in ~~the City~~ Portland ~~shall beare~~ responsible for snow and ice removal from sidewalks abutting or immediately adjacent to such land, notwithstanding any time limitations.

B. Property owner(s) and/or occupant(s) ~~shall be~~ liable for any and all damages to any person who is injured or otherwise suffers damage resulting from failure to remove snow and/or ice accumulations.

C. Property owner(s) and/or occupant(s) ~~shall be~~ liable to the City of Portland for any amounts paid or incurred consequent from claims, judgment or settlement, and for all reasonable investigation costs and attorney fees, resulting from the responsible property owner's or occupant's failure to remove snow and ice accumulations from such sidewalks as imposed by this Code.

17.28.030 Notice for Construction of Sidewalks and Curbs.

~~(Amended by Ordinances 182760, 184957 and 189413, effective March 6, 2019.)~~

~~Where the sidewalk or curb in front of any lot, part thereof, or parcel of land is or becomes so worn or deteriorated as, in the opinion of the City~~
~~AdministratorEngineer, to require a new sidewalk or curb to be constructed, or~~
~~where no sidewalk or curb exists and, in the opinion of the City AdministratorDirector~~
~~of the Bureau of Transportation, a sidewalk or curb or both are needed, it shall be~~
~~the duty of the City AdministratorEngineer to~~~~will~~ post a notice on the adjacent
property headed "Notice to Construct Sidewalk" (or curb, or both). The notice ~~shall~~
~~will~~ in legible characters direct the owner, agent, or occupant of the property
immediately to construct a sidewalk or curb or both in a good and substantial
manner and in accordance with the City ordinances, regulations and plans ~~therefor~~
~~the sidewalk or curb,~~ which will be furnished by the City AdministratorEngineer
upon application. The ~~revenue service and program of the City Administrator will~~
~~City Engineer shall file with the Revenue Division~~ an affidavit of the posting of the notice,
stating when and where the same was posted, and ~~shall will~~ furnish upon request
proper specifications, standards and information for the construction thereof. The
City AdministratorEngineer ~~shall will~~ send by mail a notice to construct the sidewalk
or curb, or both, to the owner of the property, if known, or to the agent of the owner,
if known, directed to the post office address of the owner or agent, when the post
office address is known to the City AdministratorEngineer. If the post office address
is unknown to the City AdministratorEngineer, the notice ~~shall will~~ be directed to the
owner or agent at the address where the notice was posted. A mistake in the name
of the owner or agent, or a name other than that of the owner or agent of such
property, or any mistake in the address, ~~shall will~~ not render void the notice, but in
such case the posted notice ~~shall will~~ be sufficient.

17.28.035 Curb and Intersection Corner Ramps.

~~(Amended by Ordinance 184957, effective November 25, 2011.)~~

A. All newly constructed or reconstructed sidewalk intersection corners ~~shall must~~
have included, either within the corner or within the curb area immediately adjacent
~~there to the corner,~~ ramps allowing access to the sidewalk and street by persons with
disabilities as mandated by the Americans with Disabilities Act.

B. The ramps referred to in Subsection (a) ~~must~~shall be constructed in a good and substantial manner and in accordance with the plans and specifications established by the City ~~Administrator~~Engineer. The particular plan to be used at a given intersection corner ~~must~~shall be appropriate to the location as determined by the City ~~Administrator~~Engineer.

17.28.040 Construction Alternatives.

~~(Amended by Ordinances 182760, 184957 and 189413, effective March 6, 2019.)~~

In case three or more adjacent properties are posted with notice to construct a sidewalk, or curb, or both, as set forth in Section 17.28.030, they may petition for such construction as a local improvement. Otherwise, ~~it shall be~~is the duty of the owners of properties posted with such notice to construct the ~~same~~sidewalk, curb, or both. Before constructing the sidewalk, ~~or curb, or both,~~ the owner, designated agent or the occupant of the property intending to construct the ~~same~~sidewalk, curb, or both ~~must~~shall obtain from the ~~City Administrator~~Director of the Bureau of Transportation a permit ~~therefor~~ the construction, which permit that shall will prescribe the kind of sidewalk, ~~or curb, or both,~~ to be constructed, the material to be used and the width ~~thereof~~ the sidewalk, curb, or both. After notice to construct sidewalk, ~~or curb, or both,~~ has been posted, the owner, agent or occupant ~~must~~shall construct the ~~sidewalk, curb, or both~~same within 30 days from the date of posting, or within ~~said that~~ time ~~must~~shall show cause, if any ~~there be~~, by a written remonstrance addressed to the City Council stating why the sidewalk, curb, or both~~same~~ should not be constructed. The Council will grant a hearing to the remonstrator at a regular meeting as soon thereafter as the same can be filed on regular Council Calendar. The Council will ~~thereupon then~~ determine whether or not ~~such the~~ sidewalk or curb, or both, ~~must~~shall be constructed. If the remonstrator is not present at the time of such determination by the Council, the revenue service and program of the City Administrator~~Revenue Division shall will forthwith~~ notify ~~such person the remonstrator~~ of ~~such determination of the Council's determination~~ by mail sent to the address given upon the written remonstrance. Failure of the revenue service and program of the City Administrator~~Revenue Division~~ to send the notice, or failure of the remonstrator to receive ~~the same~~it, or any other mistake of the notice therein, shall will not render void or ineffective the lien to be imposed upon the property in the event of City construction. ~~In the event that~~ the Council determines that the sidewalk, ~~or curb, or both,~~ ~~must~~shall be constructed, the owner or designated agent or the occupant ~~must~~shall within 10 days ~~thereafter~~wards begin the construction ~~thereof~~ the sidewalk, curb, or both and diligently prosecute the ~~same work~~ to final completion.

17.28.050 City Construction if Owner Fails to Construct.

~~(Amended by Ordinance 182760, effective June 5, 2009.)~~

If no petition for local improvement is filed, and if the owner, agent or occupant of property posted with notice construct sidewalk or curb, or both, ~~shall fail~~s, neglectss

or refuses to begin the construction of the sidewalk or curb within 30 days after posting of notice, or within 10 days after order by the Council in the event of a remonstrance, the City ~~shall may~~ construct the ~~same sidewalk or curb~~ as soon thereafter as such work can be conveniently scheduled. The cost for the City to have the repairs made ~~shall may~~ be assessed upon the property.

17.28.060 Location, Size and Materials of Sidewalks and Curbs.

~~(Amended by Ordinances 182760 and 184957, effective November 25, 2011.)~~

The ~~City Administrator~~~~Director of the Bureau of Transportation~~ ~~shall will~~ determine the distance between the improved sidewalk and the property line, which, in residential areas, ~~shall is~~ generally ~~be~~ 2 feet unless a different distance is specified. The width of the improved sidewalks, the grade thereof, materials for construction or reconstruction, and the location and size of curbs, ~~shall will~~ be designated by the City ~~Administrator~~~~Engineer~~. The class and kind of any fill materials and requirement thereof ~~shall will~~ be designated by the City ~~Administrator~~~~Engineer~~. Based on a finding of necessity, the ~~City Administrator~~~~Director of the Bureau of Transportation~~ may permit installation of a temporary sidewalk for a specified period, and the City ~~Administrator~~~~Engineer~~ ~~shall will~~ designate specifications for the temporary improvement.

17.28.065 Bicycle Parking.

~~(Added by Ordinance 177028; amended by Ordinances 178173, 182389, 182760 and 184957, effective November 25, 2011.)~~

Bicycle parking in the right-of-way adjacent to multifamily, commercial, institutional, employment, or industrial land uses helps to achieve the City's goal of making the bicycle an integral part of daily life in Portland. Bicycle parking in the right-of-way provides convenient, accessible, and clearly visible parking in areas where buildings are generally built to the sidewalk.

A. As a part of street improvements adjacent to developing or redeveloping property, the ~~City Administrator~~~~Director of the Bureau of Transportation~~ may, where determined appropriate and practicable, require one or more bicycle racks.

B. The location and type of rack ~~shall will~~ be determined by the ~~City Administrator~~~~Director of the Bureau of Transportation~~ based on sidewalk width, location of other elements in the right-of-way, and adjacent land uses.

C. Bicycle Parking Fund. An owner of a building without surface parking, or without parking or open areas within 50 feet of the main entrance may choose to pay a fee to the Bureau of Transportation Bicycle Parking Fund in lieu of short-term bicycle parking required by Table 266-6 in Title 33, Planning and Zoning. The Bureau of Transportation will use the collected fees to install bicycle parking and associated improvements in the right-of-way.

1. Authority. ~~The City Administrator may adopt administrative rules as authorized by Charter. The City Council delegates authority to the Director of the Bureau of Transportation to adopt administrative rules and procedures necessary to implement provisions of this section. All rules pursuant to this authority shall be filed with the Office of City Auditor and be available for public inspection.~~
2. Calculation of required fund contributions. Applicants must contribute the cost to purchase, install and maintain bicycle parking and associated improvements. The cost to purchase, install, and maintain bicycle parking will be adjusted annually as determined by the ~~City Administrator~~ Director of the Bureau of Transportation.
3. Payment. The Bicycle Parking Fund fee is due to be paid upon issuance of a building permit. The ~~Director of the Bureau of Transportation is authorized to~~ City Administrator may refund the Bicycle Parking Fund fee where the development approved by building permit is not constructed and the building permit is cancelled.
4. Width of Sidewalk Corridor. The sidewalk corridor where bicycle parking is to be installed must meet or exceed the width recommended in the Pedestrian Design Guide for installation of bicycle parking. In no case may bicycle parking, installed through the Bicycle Parking Fund be placed in a sidewalk corridor of less than 10 feet in width.

17.28.070 Owners to Repair Sidewalks and Curbs Notice to Repair.

~~(Amended by Ordinances 183348 and 184957, effective November 25, 2011.)~~

After a sidewalk has been improved or constructed, either alone or in combination with a curb, the owner of land abutting the street area in which the sidewalk has been constructed ~~shall be~~ is responsible for maintaining such sidewalk and curb in good repair. If the City ~~Administrator~~ Engineer finds that any such sidewalk or curb needs repair, ~~he or she~~ the City Administrator shall may post a notice on the adjacent property headed "Notice to Repair Sidewalk" (or curb) ~~which that shall will~~ in legible characters direct the owner, agent, or occupant of the property immediately to repair the sidewalk or curb, or both in a good and substantial manner in accordance with the plans, specification and regulations of the City. The City ~~Administrator~~ Engineer shall will send by mail a notice to repair the sidewalk or curb, or both, to the owner, if known, of such property, or to the agent (if known) of the owner, directed to the post office address of the owner or agent when known, or if the post office address is unknown, the notice ~~shall will~~ be directed to the owner or agent at the address where the notice was posted. A mistake in the name of the owner or agent, or a name other than that of the true owner or agent of the property, or mistake in address ~~shall will~~ not invalidate said notice, but in such case the posted notice ~~shall will~~ be sufficient.

17.28.080 Permit for Sidewalk and Curb Repairs.

~~(Amended by Ordinances 183348 and 186083, effective July 12, 2013.)~~

After notice to repair defective sidewalk or curb, or both, has been posted, the owner, agent or occupant ~~must~~shall make the repairs within 60 calendar days from the date of posting. Any person desiring to repair a defective sidewalk, curb or both, either before or after notice to repair has been posted, ~~must~~shall first obtain a permit. The permit ~~shall will~~ prescribe the kind of repair to be made, the material to be used, and specifications therefore, including the location and size. Any person desiring to construct or reconstruct sidewalk or curb, or both, ~~must~~shall first obtain a permit therefore and pay the fees elsewhere prescribed in Chapter 17.24.

17.28.090 Repair by the City ~~of Portland~~.

~~(Amended by Ordinances 183348 and 186083, effective July 12, 2013.)~~

If the owner, agent or occupant of any lot, part thereof or parcel of land ~~that~~which has been posted with notice to repair a sidewalk or curb, or both, ~~shall fails~~neglects or ~~refuses~~to make repairs within the period of 60 calendar days after posting, the City ~~Administrator~~Engineer may as soon as the work can be conveniently scheduled, make the repairs, and the cost ~~shall will~~ be determined and assessment made as provided in this Chapter.

~~17.28.100 Driveways Defined.~~

~~(Repealed by Ordinance 190604, effective December 17, 2021.)~~

17.28.110 Driveways - Permits and Conditions.

~~(Replaced by Ordinances 190604 and 191736, effective July 1, 2024.)~~

A. Purpose. Ensure that driveway locations promote the safe and orderly flow of pedestrians, bicycles, and vehicular traffic, preserve on-street parking, preserve or establish street trees, maximize opportunities for vegetated stormwater management, reduce conflicts with pedestrians and bicycles and enhance the pedestrian environment.

B. Authority. The ~~City Administrator~~Director of the Bureau of Transportation or their designee may issue a permit to construct a driveway in the public right-of-way subject to the conditions and requirements ~~hereinof this Chapter~~. The ~~City Administrator~~Director of the Bureau of Transportation may refer any driveway permit application to ~~the City Traffic Engineer and~~ the Oregon Department of Transportation ~~as appropriate~~, for a review of the operation, location and width. The City ~~Administrator~~Traffic Engineer ~~shall may~~ recommend such conditions and limitations regarding the location and operation of driveways as are found necessary to ensure the safe and orderly flow of pedestrian, bicycles and vehicular traffic, avoid adverse effects on transit operations, and preserve on-street parking.

The ~~City Administrator~~~~Director of the Bureau of Transportation~~ may require an applicant for a driveway permit to provide evidence that the proposed driveway will access legal parking and maneuvering space on property as specified in PCC Title 33. The ~~City Administrator~~~~Director~~ may refuse to issue a permit if the applicant cannot show evidence ~~the~~ Portland Permitting & Development has determined that the driveway will access a legal parking space.

The ~~City Administrator~~~~Director of the Bureau of Transportation~~ may require repair and/or reconstruction of an adjacent or abutting driveway, curb or sidewalk, or a portion thereof that will be impacted as a result of the construction of a new or reconstructed driveway.

C. Driveway definition: For the purposes of this Code section, a driveway is a gravel or paved way for vehicular traffic extending from the roadway to the adjacent property line(s) for the purpose of providing access to parking as provided under PCC Chapter 33.266.

D. Reconstruction and Revocation of Existing Driveways.

1. The ~~City Administrator~~~~Director of the Bureau of Transportation~~ may revoke any driveway permit or require the modification of any driveway if:

- a. The area occupied by the driveway is needed for right-of-way purposes; or
- b. Continued operation of the driveway interferes with the safe and orderly flow of pedestrians, bicycles or vehicular traffic; or
- c. The abutting owner has failed to comply with all specifications and conditions of the permit; or
- d. The driveway does not access a legal parking space on abutting property per PCC Title 33.

2. The Council may revoke any driveway permit if it deems such action will be in the public interest.

E. Enforcement: Within 60 calendar days of written notice from the ~~City Administrator~~~~Director of the Bureau of Transportation~~ to close or modify a driveway, the abutting property owner ~~must~~~~shall~~ obtain any required permits and make the required corrections. If the abutting owner fails to make the required corrections within 60 calendar days, the City may perform the required work at the expense of the abutting property owner and the cost ~~shall~~~~will~~ be determined and assessment made as provided in this Chapter.

F. Exceptions. For any driveway that does not conform with the requirements of this chapter and administrative rule TRN-10.40, review and approval through a Driveway Design Exception ~~shall be~~~~is~~ required. Any applicant requesting a Driveway

Design Exception ~~must~~shall provide information, as determined necessary by the City ~~Administrator~~Traffic Engineer, to support the application. The ~~City Administrator~~Director of the Bureau of Transportation may establish conditions and limitations deemed necessary to ensure the safe and orderly flow of pedestrian and vehicular traffic. Appeal of the decision can be submitted in writing to the ~~City Administrator~~Director or their designee(s). The ~~City Administrator~~Director or their designee(s) will review the determination and send a final decision to the applicant.

G. References. Refer to administrative rule “TRN-10.40 – Driveways – Operation and Location” for additional requirements.

Refer to City of Portland Standard Drawings for additional design requirements.

17.28.120 After Construction Driveways Deemed Part of Sidewalk.

After a driveway has been constructed, it ~~shall~~will be deemed a part of the sidewalk whether or not there is a sidewalk improvement extending along the balance of the frontage property, for all purposes of repair or reconstruction. Requirements relating to construction or reconstruction of a sidewalk as provided in this Chapter, ~~shall~~beare applicable to reconstruction of a driveway, except that the property owner ~~shall~~will have no option to petition for a local improvement solely for such purpose.

17.28.130 Reconstruction of Existing Driveways.

~~(Amended by Ordinance 186716, effective August 15, 2014.)~~

If the City ~~Administrator~~Engineer finds that any driveway does not conform to the requirements of this Chapter and should be reconstructed for the protection or convenience of pedestrians or vehicles using the street area, the City ~~Administrator~~Engineer may post notice and require the reconstruction or removal of the driveway. If the abutting property owner fails to make the required corrections within 60 days the City may perform the required work at the expense of the abutting property owner, and the cost ~~shall~~will be determined and assessment made as provided in this Chapter.

17.28.140 City Charges for Construction or Repair of Sidewalks, Curbs and Driveways.

~~(Amended by Ordinances 182760 and 189837, effective February 28, 2020.)~~

The property owner ~~shall~~will be charged for the construction, reconstruction or repair of sidewalks, curbs and driveways. The cost for the City to have repairs made will be assessed as a lien upon the property.

A. Special structural, excavation and fill jobs and jobs in areas of traffic and pedestrian congestion ~~shall~~will be charged at the discretion of the City ~~Administrator~~Engineer. Determination of whether a job is of special type ~~shall~~will be made by the City ~~Administrator~~Engineer.

B. Cost basis charges for work may be made at the discretion of the City ~~Administrator~~Engineer if the actual cost can be conveniently and accurately determined.

17.28.150 Billing for Charges.

~~(Amended by Ordinances 183348, 189413 and 189837, effective February 28, 2020.)~~

A. When work is completed by the City on any construction, reconstruction or repair of a sidewalk, curb or driveway, the amount of the charge ~~shall~~will be determined by the City ~~Administrator~~Engineer and reported to the revenue service and program of the City Administrator~~Revenue Division~~. The revenue service and program of the City Administrator~~Revenue Division~~ ~~shall~~will calculate a proposed assessment that includes the amount of the improvement charge plus 10% of the charge to defray the administrative costs of notice, assessment and lien recording.

B. The revenue service and program of the City Administrator~~Revenue Division~~ ~~shall~~will prepare a proposed assessment notice for the owner of each property or the owner's agent of the affected property as shown in the County tax records. The notice ~~shall~~will be mailed at least 21 calendar days before the public hearing on the proposed assessment, and the notice ~~shall~~will consist of the following information:

1. The legal description and site address of the property;
2. The amount of the proposed assessment against the property;
3. The manner and deadline for filing a written remonstrance to the proposed assessment amount;
4. The date, time and location of the public hearing for Council consideration of the proposed assessment; and
5. Contact information for sidewalk repair.

C. Any owner of property proposed to be assessed for sidewalk repair may file a remonstrance to the proposed assessment with the revenue service and program of the City Administrator~~Revenue Division~~. The remonstrance must be in writing and received by the revenue service and program of the City Administrator~~Revenue Division~~ via US mail or hand delivered no later than 5:00 PM eight (8) calendar days prior to the hearing by the City Council on the proposed final assessment. Upon receipt of a timely filed remonstrance, the revenue service and program of the City Administrator~~Revenue Division~~ ~~shall~~will remove the property from the filing of the proposed assessment before the City Council hearing date, and ~~shall~~will refer the remonstrance to the responsible bureau for follow-up and response.

D. The revenue service and program of the City Administrator~~Revenue Division~~ ~~shall~~will mail the proposed assessment notice by first class mail to the owners of the

affected property. The notice shall will be deemed given upon deposit in the U.S. mail.

17.28.160 Assessment of Charges.

~~(Amended by Ordinances 182760, 183348, 189413 and 189837, effective February 28, 2020.)~~

A. The revenue service and program of the City Administrator~~Revenue Division~~ shall will refer to the City ~~Administrator~~Engineer or responsible bureau all remonstrances and remove from further assessment action the proposed assessments thatwhich are associated with the remonstrances. The City ~~Administrator~~Engineer or responsible bureau shall will review each remonstrance by taking the following actions:

1. Determine whether the improvement work was required by Code and whether the conditions required the improvements, whether the required improvements are consistent with Code and City specifications, and whether the improvement charges are calculated as provided by Code; and
2. Determine the extent of actions or adjustments thatwhich are necessary to bring the proposed assessment into compliance with Code and program standards; and
3. Mail a statement of findings to the remonstrating property owner, and file a copy with the revenue service and program of the City Administrator~~Revenue Division~~. The findings shall will include a statement that the property owner may appeal the determination.
4. If a property owner concludes that this determination is not consistent with City Code, they may request an appeal before a Code Hearings Officer under the provisions of Portland City Code Chapter 22.10. The associated property will be removed from further assessment action until the appeal is resolved. The Code Hearings Officer shall will notify the appellant and the revenue service and program of the City Administrator~~Revenue Division~~ of their determination. The affected property will be included in the next group assessment for City Council approval, unless the Code Hearings Officer annuls, reverses, or remands the assessment or the Code Hearings Officer's decision is appealed by writ of review.

B. Following adoption of the assessing ordinance, the revenue service and program of the City Administrator~~Revenue Division~~ shall will mail a final assessment notice to the owners of the affected property as shown on the last available assessment roll in the office of the county assessor. The notice shall will be deemed given upon deposit in the U.S. mail. The notice shall will contain the following information:

1. The legal description and site address of the property;

2. The final assessment amount;
3. A statement that the final assessment is recorded in the Docket of City Liens, and is a lien ~~that~~which has first priority against the property as provided by state statute;
4. The manner and deadline for paying the final assessment in full or requesting to pay the final assessment in installments if authorized by Code;
5. The interest, penalties and collections costs ~~that~~which ~~shall~~may be charged if the final assessment is not paid or an installment payment contract is not filed before the deadline contained in the notice; and
6. A statement that delinquent final assessments may be collected by foreclosure and property sale.

C. The ~~revenue service and program of the City Administrator~~Revenue Division ~~shall~~will maintain a Docket of City Liens containing final assessments on property. Any unpaid final assessment ~~shall~~will be recorded in the City lien docket, and it ~~shall~~will be binding upon the property owner and all subsequent property owners of the property or any segregated part of it. The docket ~~shall~~will stand thereafter as a lien docket the same as ad valorem property taxes assessed in favor of the City against each lot or parcel of land until paid, for the following:

1. The amount of the unpaid final assessments docketed, with accrued interest at the rate determined by the City Council, or in the case of an installment contract, at the rate set forth in the contract; and
2. Any additional interest, penalties, or billing charges imposed by the City with respect to any installments of final assessments ~~that~~which are not paid when due.

D. All unpaid final assessments together with accrued and unpaid interest and penalties and billing charges are a lien on each lot or parcel of land respectively, in favor of the City and the lien ~~shall~~will have first priority over all other liens and encumbrances whatsoever.

E. The City ~~shall~~will enforce assessment liens and installment payment contracts under this Chapter in the same manner as other City assessments as set forth in Title 5.

Chapter 17.32 Public Sewer and Drainage System Permits, Connections, Maintenance, and Damage

~~(Chapter replaced by Ordinance 186659; amended by Ordinance 191725, effective July 1, 2024.)~~

17.32.010 Purpose.

~~(Amended by Ordinance 191725, effective July 1, 2024.)~~

This Chapter addresses access and connection or damage to, and the use, construction, modification, maintenance, repair, and removal of, components of the City sewer, storm sewer and drainage systems, and their easements. This Chapter operates in conjunction with Chapter 17.38 to regulate the collection, conveyance and disposal of sanitary and stormwater discharges from public and private properties. This Chapter is administered by the City Administrator through~~Director of~~ the Bureau of Environmental Services (BES).

17.32.020 Definitions.

~~(Amended by Ordinances 186902 and 191725, effective July 1, 2024.)~~

The following definitions apply to this Chapter:

A. Building sewer means that portion of the horizontal piping system that receives the discharge of building drains and extends to a public sewer, private sewer, private sewage disposal system, or other approved discharge point; and is located on private property.

B. Capacity means the flow volume or rate for which a specific facility is designed to safely contain, receive, convey, infiltrate, or reduce pollutants from sanitary sewage, stormwater, wastewater, or other discharge in order to meet a specific performance standard.

C. City storm sewer and drainage system means a City conveyance or system of conveyances, including but not limited to pipes, pumps, drainage ditches, constructed channels, groundwater-related disposal systems, underground injection control devices, stormwater management facilities, and storm drains, that are designed or used to collect and transport stormwater. "City storm sewer and drainage systems" does not include natural streams, creeks, ponds, lakes, a combined sewer, or any part of a Publicly Owned Treatment Works, as defined in 40 CFR 403.3.

D. Combined sewer means a sewer designed to convey both sanitary sewage and stormwater.

E. Commercial or industrial occupancy means any structure or facility ~~wherein~~ which preparation, processing, treating, making, compounding, assembling, mixing, improving, or storing any product or any solid, liquid or gaseous material for commercial or industrial purposes occurs, or ~~wherein~~ which cleaning, processing or treating of tanks, vats, drums, cylinders or any other container used in transportation or storage of any solid, liquid or gaseous material for commercial or industrial purpose occurs.

F. Connection means the connection of all sanitary waste and drainage disposal lines from all development on a property to the public sewer and drainage system.

G. Conveyance means the transport of sanitary sewage, stormwater, wastewater or other discharge from one point to another point.

H. Director means the Director of the Bureau of Environmental Services or the Director's designee.

I. Discharge point means the connection point or destination for a discharge leaving a site.

J. Drainage means the flow of waters across public and private properties.

K. Drainage improvements means management facilities or modifications to storm sewers, drainage systems or drainage patterns to address safety issues, increase capacity, or improve water flows or quality.

L. Green street means a vegetated stormwater management facility located within a public or private right-of-way.

M. Groundwater discharge means a discharge pumped or directed from the ground. Groundwater-related discharges include but are not limited to, subsurface water from site remediation and investigations, well development, Brownfield development, discharges from footing and foundation drains, and subsurface water associated with construction or property management dewatering activities.

N. Nonconforming sewer means a private sewer system that accesses the public sewer by any of the following:

1. A sewer lateral draining more than one property that conveys the discharge to the public sewer in the public right-of-way (ROW) or in a public sewer easement, also known as a "party" sewer. Exception: This does not apply to Middle Housing Land Division (MHL) shared sewers that meet all City requirements and standards.
2. A sewer lateral crossing one or more properties without the benefit of a recorded easement that meets City standards.
3. A nonconforming private sewer line.
4. A sewer lateral in the public ROW or in a public sewer easement with an alignment or other physical characteristic contrary to the approved standards of the Sewer and Drainage Facilities Design Manual (SDFDM).

O. Public right-of-way means the area within the confines of a dedicated public street, an easement owned by the City, or other area dedicated for public use for streets or public facilities.

P. Public sewer easement is a grant of the right by a property owner to the City to use land for placement and maintenance of public sewer facilities.

Q. Responsible party means, except as separately defined by applicable administrative rule, any person who, regardless of knowledge or intent, causes or contributes to a violation of this Chapter or associated rules.

R. Route of conveyance means the BES-approved path of conveyance from a property or private stormwater system to the approved discharge point.

S. Route of service means the BES-approved path of connection of a building sewer or private stormwater conveyance to a City sewer, storm sewer or drainage system.

T. Sampling manhole means a manhole in a sewer lateral or other monitoring access that is acceptable to BES, and that allows for observation, sampling or measurement of all discharges to the City's sewer or drainage system.

U. Stormwater means water that originates as precipitation on a particular site, basin, or watershed.

V. Wye means a connection joint or pipe between a public sewer and more than one sewer service lateral, building sewer, or common private sewer system.

17.32.030 Protection of the City Sewer and Drainage System.

~~(Amended by Ordinances 189506 and 191725, effective July 1, 2024.)~~

A. Except for emergency repairs described in Subsection 17.32.030 B., it is unlawful for any person to take the following actions without first obtaining authorization ~~from the Director~~ and approval from the ~~BES Chief Engineer~~City Administrator via permit, contract, or other legal agreement and paying applicable fees:

1. Access any public sewer component;
2. Encroach into a City sewer easement;
3. Dig up, break into, excavate, disturb, dig under, or undermine any public street or City sewer easement;
4. Make a connection, obstruct or interfere with the public sewer;
5. Damage, connect, modify or remove any component of the public sewer;
or
6. Direct water, from any source, on private property to run onto any City sidewalk, street, easement or right of way.

B. In the case of the need for emergency repair to a component of the public sewer to protect public health, safety or the environment, the person making the repair may commence work without first obtaining a permit provided that:

1. The person immediately notifies the City of the need for repair;
2. Any emergency repair work is limited to what is needed to remove the emergency situation as deemed necessary by ~~BES Chief Engineer~~City Administrator;
3. The work is performed in compliance with standard City construction specifications, the Sewer and Drainage Facilities Design Manual, the Source Control Manual, and the Stormwater Management Manual; and
4. The person making repairs files an application for a BES permit within three business days of the emergency and complies with all permit conditions and pays all applicable fees.

C. Repair of nonconforming sewers located in public right-of-way or a City easement is prohibited unless the ~~BES Chief Engineer~~City Administrator determines that it is in the public interest to allow the nonconforming system to remain.

D. The ~~City Administrator~~Portland Bureau of Transportation may require a permit and approval from the ~~City Administrator~~BES Chief Engineer to construct and attach drainage improvements to the public sewer system as needed to provide stormwater drainage for public streets.

E. Except as otherwise allowed by the ~~City Administrator~~Director, it is unlawful for any person to allow or cause a connection that will result in the discharge of sanitary sewage into a City storm sewer and drainage system.

F. Except as otherwise allowed by the ~~City Administrator~~Director, it is unlawful for any person to allow or cause a connection that will result in the discharge of storm drainage, collected groundwater or other water to a public sewer designated by the ~~BES Chief Engineer~~City Administrator to be used solely for sanitary sewage.

G. Except as otherwise allowed by the ~~City Administrator~~Director, it is unlawful for any person to allow or cause damage to the public sewer. In addition to the enforcement tools listed in Section 17.32.140, each Responsible Party is jointly, severally, and strictly liable for all of the City's reasonable costs to repair, replace, or conduct any other work needed to restore the public sewer and any associated facilities or properties to their pre-damage condition and functionality, including consequential damages, third-party damages, and associated legal costs.

17.32.040 Types of Permits and Reviews.

~~(Amended by Ordinance 191725, effective July 1, 2024.)~~

The ~~Director~~City has established a permitting system to review, approve and enforce proposals to access, use, connect to, modify, repair or remove components of the City sewer, storm sewer and drainage system. ~~BES-a~~Administrative rules identify application submittal requirements, permit issuance decision-making, inspection, bond, and warranty requirements.

A. In general, the ~~Director~~City Administrator authorizes the following permits, reviews, and authorizations:

1. Access and system use permits for limited use of sewer systems for monitoring, sampling or other non-structural activity;
2. Encroachment reviews for City sewer and drainage systems and their easements, including both temporary staging and permanent structural modifications;
3. Connection permits for new laterals or permanent routing of any discharges to the City sewer, storm sewer or drainage system;
4. Public works permits for construction, modification, repair or removal of a component to the City sewer, storm sewer or drainage system; and
5. Pre-issuance reviews on projects in the vicinity of City sewer, storm sewer and drainage systems that are required to obtain other City permits or authorizations to conduct work.
6. Authorization of the activities described in Section 17.32.030 through a binding contract or other legally binding agreement or a BES discharge permit or authorization.

B. The ~~City Administrator~~BES Chief Engineer may refuse to issue a permit if:

1. In the judgment of the ~~City Administrator~~BES Chief Engineer, the proposed work or activity is not suitable in the circumstances or will not be consistent with or protective of existing or proposed public sewer, storm sewer or drainage improvements or activities in the immediate vicinity;
2. The application is not modified as the ~~City Administrator~~BES Chief Engineer deems necessary;
3. The City ~~Administrator~~Engineer has not issued a street opening permit if the public sewer or drainage improvement or proposed work or activity is occurring or will occur within a public right-of-way or area to be designated as a public right-of-way;
4. The application is to repair, replace or upgrade an existing private sewer or drainage system that is nonconforming; or

5. The requirements of any previously issued permit have not been met including the payment of delinquent fees or City charges.

17.32.050 Work Allowed and Required Under Permit.

~~(Amended by Ordinances 189506 and 191725, effective July 1, 2024.)~~

A. Upon receipt of the completed application, proper and satisfactory bond, and payment of all applicable fees, the ~~City Administrator~~**BES Chief Engineer** may issue the requested permit, unless there are reasons of public interest to the contrary. The permit may include restrictions or conditions as deemed necessary by the ~~City Administrator~~**BES Chief Engineer**.

B. All persons doing work under a permit must comply with all the conditions of the permit as specified by the ~~City Administrator Director~~ and perform work to the standards set by the ~~City Administrator~~**BES Chief Engineer**. The ~~City Administrator~~**BES Chief Engineer** may establish standards for particular types or classes of work to be performed by persons permitted to work on BES facilities in streets, easements, or other public property. Such conditions may include:

1. Full payment of permit fees.
2. Specifics about the kind of work and the time in which the work is to be completed.
3. Such other requirements as the ~~City Administrator~~**BES Chief Engineer** finds appropriate in the public interest.

C. The ~~City Administrator~~**BES Chief Engineer** may refuse to accept work that is not in full compliance with the plans, specifications, permit or other contract documents. If the work is refused, it will not be accepted unless it is brought into full compliance.

1. All work must comply with the following design and construction standards;
 - a. Sanitary, wastewater or other discharges to the sanitary or combined system must comply with the Sewer and Drainage Facilities Design Manual and the Source Control Manual.
 - b. Stormwater, groundwater discharge or other waters discharged to the City's storm sewer and drainage system must comply with the Stormwater Management Manual, the Source Control Manual, and Chapter 17.38.

D. All components of the City sewer, storm sewer and drainage system must be located within public rights-of-way, including easements. The width of public rights-of-way must be adequate to allow reasonable access for inspection, maintenance, repair and replacement, using standard construction methods. The minimum width for City sewer, storm sewer or drainage easements located outside of the public

right-of-way is 15 feet. The ~~City Administrator~~ Director may require enlargement of an easement as necessary to address topographic conditions, the design of the improvement, or other relevant factors.

E. It is unlawful for any person who obtains a permit to fail or refuse to immediately remove all surplus sand, earth, rubbish, and other material from public streets and other public areas. All public streets, easements, and other public properties must be repaired or replaced to a condition satisfactory to the City ~~Engineer, or the BES Chief Engineer for sewer, storm sewer and drainage easements,~~ Administrator at the permittee's own expense for the period of two years from the date of the completion of the work, as acknowledged in writing by the City.

17.32.060 Permit-Related Records.

BES will keep a record of permitted activities and improvements made under permit, permits issued under this Chapter, permit conditions, and the dates of acceptance of improvements. Any plans, specifications, survey notes, or other original documents as required by the ~~BES Chief Engineer~~ City Administrator that were prepared for or produced during permit application or the design of, construction of, or connection to of a public sewer or drainage improvement, become the property of the City and must be delivered to the ~~City Administrator~~ BES Chief Engineer before acceptance of the improvement by the ~~City Administrator~~ BES Chief Engineer. The permittee must provide copies of any sampling data or other information obtained as a result of accessing the City sewer, storm sewer and drainage system.

17.32.070 Maintenance of Sewer and Drainage Systems.

~~(Amended by Ordinances 188477, 189506 and 191725, effective July 1, 2024.)~~

Sewer system maintenance obligations including inspection, rehabilitation, routine cleaning and repair are based on ownership of the system:

A. Private Systems. A sewer or drainage system that was not constructed by the City, built under a public works permit, or otherwise accepted pursuant to Subsections 17.32.070 B.1. or B.2. must be maintained by the parties served by the system, regardless of whether the system is located within a public right-of-way.

1. If any portion of an existing sewer or drainage system extends into a public right-of-way, the property owner must obtain a permit pursuant to Chapter 17.24 before beginning work within the right-of-way.

2. For a sewer or drainage system located in a public right-of-way that is under either private or unclear ownership, the ~~City Administrator~~ BES Chief Engineer may grant or deny a permit to repair, upgrade, or replace the system as provided by Section 17.32.030. Such a system may only remain in the public right-of-way at the discretion of the ~~City Administrator~~ BES Chief Engineer.

3. Incidental, inadvertent, or emergency City maintenance of private sewer or drainage systems or systems with unclear ownership does not obligate the City to perform future maintenance, imply acceptance of the system, or confer ownership of the system on the City.

B. Public Systems. A sewer or drainage system constructed by the City, constructed under a public works permit, or accepted by the City pursuant to Subsections 17.32.070 B.1. or B.3. will be maintained by the City as explained below in this Section unless otherwise specified by written agreement with the City.

1. Limits of City Maintenance Responsibility. The City maintains City sewer and drainage improvements that are located in City rights-of-way and that are described as part of the City sewer, storm sewer and drainage system. However, the City only maintains laterals as follows:

a. For a City-paved street with curbs, the City will maintain a lateral from the sewer main to the street-side curb face nearest the property being served. If there is more than one curb, as with stormwater facilities, the City will maintain to the street-side curb face closest to the property line. Otherwise, the City will maintain only the wye or tee connection for laterals.

b. For a City-paved street without curbs, the City will maintain a lateral from the sewer main to the edge of the City paved street area.

c. Under Subsections 17.32.070 B.1.a. and b., when the sewer main is located in the right-of-way between the property line and the street-side curb face closest to the property line, the City will maintain only the wye or tee connection for the lateral.

d. For an unpaved street, the City will maintain those portions of any lateral within an area of right-of-way up to 28 feet wide and centered on the centerline of the City right-of-way, as determined by the City, as follows:

(1) When the sewer main is within the 28-foot maintenance area, the City will maintain the lateral to the limit of the maintenance area;

(2) When the sewer main is outside the 28-foot maintenance area and at least a portion of the lateral lies within the maintenance area, the City will maintain the lateral to the limit of the maintenance area; and

(3) When the sewer main is outside the 28-foot maintenance area and no portion of the lateral lies within the maintenance area, the City will maintain only the wye or tee connection for the lateral.

e. In City sewer, storm sewer and drainage system easements, the City will maintain public sewer mains and only the wye or tee connections for laterals.

f. Those portions of a lateral not addressed by Subsections 17.32.070 B.1.a. through d. are the responsibility of the property owner receiving service through the lateral.

2. Acceptance of Systems with Unclear Ownership.

a. The City Administrator~~BES Chief Engineer~~ may agree to conduct future maintenance of a sewer or drainage system located in a public right-of-way or City utility easement where the ownership is unclear if, in the judgment of the City Administrator~~BES Chief Engineer~~, the public will benefit thereby as a result and:

(1) The system conveys only domestic sanitary or stormwater flows from residential property; or

(2) The system has been specifically modified through City permit or by the City to accept stormwater flows from City rights-of-way or other City-controlled property.

b. Acceptance of a system under this Section does not include or imply acceptance by the City of any maintenance responsibility, cost, liability or damage that arises from conditions or use of the system before acceptance by the City.

3. Acceptance of Systems from Other Agencies. Utilities or Individuals. The City Administrator~~BES Chief Engineer~~ may accept sewer, storm sewer and drainage systems from other public or private utilities, public agencies, non-profit groups or other persons as the City Administrator~~BES Chief Engineer~~ deems appropriate. This acceptance may include full ownership or only assumption of maintenance responsibilities.

4. Adoption of Private Systems in the Public Right-of-Way. The City Administrator~~BES Chief Engineer~~ may agree to take ownership of a private sewer system or drainage improvement in the City right-of-way as provided by administrative rule. At the discretion of the City Administrator~~BES Chief Engineer~~, a system meeting the following general criteria may be adopted:

a. All the properties connected to the system are participating in the City's Nonconforming Sewer Conversion Program pursuant to Chapter 17.33;

b. The sewer system conveys only domestic sanitary or stormwater flows from residential property;

c. The owners of all properties connected to the system provide the City with detailed information about the design, location, and condition of the system, and the properties connected to it as specified by administrative rule; and

d. The owners of all the properties connected to the system relinquish all claims to the system.

5. A system accepted under Subsection 17.32.070 B.1. or adopted under Subsection 17.32.070 B.2. will be added to the City maintenance roles as of the date of acknowledgment by the [City Administrator](#)~~BES Chief Engineer~~.

6. The City's responsibility for maintenance of any sewer or drainage system, branch or connection point is subject to the City's annual budget appropriation and will be limited to the level of service dictated by the City Council's discretionary budget decision. The City assumes no responsibility for activities requiring a level of maintenance in excess of the level for which funds have been appropriated.

7. Any private piping, collection or conveyance structures needed to provide service to or used to transport discharges to the City's sewer, storm sewer or drainage system, will be the sole responsibility of the property owners(s) served by such systems. System installation, maintenance and repair will occur at the expense of the applicable property owner(s).

8. Volunteer Maintenance. Property owners adjacent to City green street or other drainage improvement are not responsible for routine maintenance of the facilities, but BES-approved volunteers may voluntarily perform any of the following tasks:

a. Trash, debris, and sediment removal;

b. Weed removal;

c. Leaf pick up and removal;

d. Watering of vegetation;

e. Clearing inlets and outlets to allow stormwater to freely enter and exit the facility; and

f. Planting vegetation with written approval from BES.

C. Nuisance Abatement.

1. The [City Administrator](#)~~BES Chief Engineer~~ may determine that a sewer or drainage improvement located in a public right-of-way that is under either private or unclear ownership constitutes a public nuisance if it:

- a. Impairs or threatens to impair the operation, maintenance or installation of any street or public utility;
- b. Is so deteriorated that its flows infiltrate or threaten to infiltrate any public utility or impact or threaten to impact the support structures of any street or public utilities;
- c. Violates City operation, maintenance or construction standards or rules, or
- d. Otherwise creates a public health or safety hazard.

2. Summary abatement of the nuisance is authorized when the City Administrator~~BES Chief Engineer~~ determines it is necessary to take immediate action to meet the purposes of this Title.

3. Notice to the responsible party before summary abatement is not required. Following summary abatement, the City Administrator~~BES Chief Engineer~~ will notify all owners identified in this Chapter or Chapter 25.09 as having maintenance or repair responsibilities. An error in the name of the property owner or address listed in the county assessment and taxation records will not affect the sufficiency of the notice.

4. The City will bill each property that the City determines caused or contributed to the nuisance to recover the costs of abatement. If the amount due is not paid in full within 30 days of the date of notice, the City may place a lien against the property.

17.32.080 Use and Access Permits.

A. Access to or use of the City sewer, storm sewer and drainage system requires the written approval of the City Administrator~~Director~~ and payment of all applicable fees. Public agencies or BES-City discharge permittees may be eligible for multi-use or programmatic permits. Structural modification of the City sewer, storm sewer and drainage systems requires a public works permit under Section 17.32.100.

B. Drainage System Modifications. Modifications of any public or private stormwater management systems require the written approval of the City Administrator~~Director~~.

17.32.090 Connection Permits.

~~(Amended by Ordinances 189506 and 191725, effective July 1, 2024.)~~

Connecting to a City sewer, storm sewer or drainage system, requires the written permission of the City Administrator~~Director~~ and payment of all applicable fees. A permit application must include the purpose of the work; the name of the street or proposed or existing easement or right of way where work is proposed; the location of potentially affected components of the City sewer, storm sewer and drainage

system; the location of the building or lot to be connected by the work (if any); and the location and the area to be drained.

A. If the application is for a permit is to connect a commercial or industrial occupancy it must also include:

1. A description of the business, a plat of the property, plans and specifications for any special installations;
2. A description of the character and quantity of waters and wastes to be discharged through the connection;
3. A proposed schedule for work; and
4. Any further information required by the [City AdministratorBES-Chief Engineer](#).

B. If the application is for a permit to connect properties outside the City limits, connection approval will be at the sole discretion of the [City AdministratorBES-Chief Engineer](#). No connection from property outside the City limits or within a neighboring jurisdiction will be permitted that, in the opinion of the [City AdministratorBES-Chief Engineer](#), may overload or otherwise compromise any component of the City sewer, storm sewer or drainage system. Connection of properties outside the City's boundaries is subject to the requirements and limitations of the City's adopted urban services policy.

1. Application for a permit to connect must be made in writing by the owner or other person having a recorded equitable interest in the property for which the connection is desired. Before a permit can be issued, all fees and special charges must be paid and any permits that may be required for street or highway opening and use must be obtained.
2. Any person connecting a property outside the City limits to the City sewer, storm sewer or drainage system may be required to enter into a maintenance agreement.
3. Flows from outside the City limits may be required to meet the standards in the Source Control Manual, the Stormwater Management Manual or the Sewer Drainage Facilities Design Manual, as determined by the [City AdministratorBES-Chief Engineer](#) based on the needs of the City sewer, storm sewer and drainage system.

C. All permitted work must meet the following general sewer and drainage system construction standards, if applicable:

1. All discharges must be routed to the City sewer, storm sewer and drainage system by gravity service when possible, unless otherwise approved by the [City AdministratorBES-Chief Engineer](#).

2. If separate City storm and sanitary sewers are available, separate connection must be made to the City's sewer, storm sewer and drainage system from the private property:

- a.** Sanitary sewage from private property must be separately conveyed to the property line and connected through individual laterals for discharge to the City separate sanitary or combined sewer.
- b.** Drainage from private property, whether from the roof of a building, the surface of a structure, footings of a structure or any other surface, groundwater discharge or other drainage must be conveyed separately from sanitary sewage to City systems via an approvable route of conveyance or discharge point to the City storm sewer and drainage system;
- c.** If separate storm and sanitary sewers are not available, but a combined sewer is available, the [City AdministratorBES-Chief Engineer](#) may require or allow:

- (1)** Separate connections for the separate sewage lines from the property to the City's combined sewer;
- (2)** Joining of the separate lines at the curb line closest to the property line or edge of an easement for single discharge into the City's combined sewer; or
- (3)** Onsite infiltration of surface, groundwater discharge or other drainage to minimize or eliminate the need for offsite discharge.

3. All discharges must be connected via an approved route of service or route of conveyance to a discharge point approved by the [City AdministratorBES-Chief Engineer](#).

D. The [City AdministratorBES-Chief Engineer](#) may require that a property owner modify or abandon an existing sewer connection when a new or renovated public sewer becomes available. The [City AdministratorBES-Chief Engineer](#) may dictate a new route of service or route of conveyance and new approved connection point to the City sewer, storm sewer and drainage system for sewage, wastewater or other drainage discharges. A new connection may be:

- 1.** Required or provided by BES as part of an infrastructure replacement project that addresses issues such as but not limited to pipe stability, capacity expansion, water quality improvement, or reduction of inflow or infiltration into existing laterals.
- 2.** Required for a property with a private sewer, storm sewer and drainage system located in City right-of-way to obtain a City encroachment permit; or

3. Required in order to remove an illegal connection that is subject to an enforcement action.

17.32.100 Public Works Permits.

~~(Amended by Ordinance 191725 and 191736, effective July 1, 2024.)~~

A. The construction, modification, repair or removal of a component of the City sewer, storm sewer and drainage system requires a public works permit prior to beginning work. All applicants must complete a public works application form that provides:

1. A description of the proposed work and the applicable public improvements.
2. Locations and names of proposed streets where work is proposed, location of any off-street improvements, and the name of a new proposed plat development, if any.
3. Any other information the ~~City Administrator~~~~BES chief Engineer~~ deems appropriate.

A permit ~~will~~may be issued by the City ~~Administrator~~Administrator after the sewer or drainage improvement plans and/or description of proposed work have been approved by the ~~City Administrator~~BES Chief Engineer.

B. Prior to City issuance of a permit, the applicant must provide a performance bond, cash, or other financial guarantee in an amount sufficient to pay the estimated for construction, engineering, and other costs for the City to perform the permitted work.

C. The ~~City Administrator~~~~BES Chief Engineer~~ will only issue a permit for the construction of a public sewer or drainage improvement in advance of plat recording of a subdivision or planned unit development after:

1. The sewer or drainage improvement plans have been approved;
2. The final plat, with or without required signatures affixed, has been submitted to ~~the~~ Portland Permitting & Development;
3. ~~The~~ Portland Permitting & Development has given written assurances that subdivision or planned unit development approval conditions have been or will be met;
4. All applicable easements outside the subdivision or planned unit development have been obtained, and

5. The applicant has complied with Section 17.32.050 of [Portland Citythis](#) Code.

6. The issuance of a [BES-City](#) public works permit in no way waives any requirements by the City or any other public agency that may be associated with the development of a plat or Planned Unit Development.

D. Persons wishing to utilize City design services must include payment of a deposit in an amount to be determined by the [City AdministratorDirector](#) with the permit application. All deposits must be made before any City design work begins. BES will retain the deposit as compensation for the preparation of design and plans or for review efforts if:

1. A permit application or issued public works permit has had no action or communication for one year from the previous contact; or

2. A permit is not issued for the proposed improvement within one year from the time the design and plans are reviewed and completed.

3. If a public works permit is issued for the proposed improvement within one year from the time the design and plans are completed, the amount of the required deposit will be applied to the cost of the permit fee for such improvements.

E. In addition to the standard permit conditions of Section 17.32.050, public works permits must meet the following standard conditions:

1. The resulting public improvement must be located in a public easement or public right of way and will come under City control upon plat and easement recording with the County.

2. The permittee must agree to indemnify, defend, and hold the City [of Portland](#) harmless in writing against any liability that may arise from or in connection with the permitted activity prior to any dedication of rights-of-way or recording of easements. The permittee must assume all risk of loss that may arise in the event the City or any other public agency subsequently requires changes in or additions to plans or refuses to approve all or any part of the permittee's improvements.

3. The permittee must, at the permittee's own expense, maintain any permitted City sewer or drainage improvement for a period of 24 months following the issuance of a letter of permit completion by the City [AdministratorEngineer](#). The warranty period ensures that workmanship and materials are not defective and that the improvement is operating properly. BES may extend the warranty period for any repairs, alterations or rehabilitations that need [ed](#) to occur during the original warranty period.

4. Any drainage improvements made on private property and private or shared private/public facility systems allowed in a City right-of-way or easement will remain the maintenance responsibility of the private property owner as a condition of the approved permit and associated maintenance agreement unless accepted as a City maintenance responsibility by the City Administrator~~Director~~.

5. All plats and easements must be recorded with the County prior to final acceptance of the public sewer or drainage improvements.

F. Acceptance of Improvements.

1. Notice of Construction Completion. During the course of construction, and before issuance of a letter of permit completion ~~from the BES Chief Engineer~~ or a certificate of completion from the ~~Bureau of Transportation for joint projects~~City Administrator, the ~~City Administrator~~BES Chief Engineer will inspect the sewer or drainage improvement and to determine if the improvements were constructed in compliance with the plans, specifications and conditions of the permit and if they meet City standards for quality of workmanship. The ~~City Administrator~~BES Chief Engineer will check the improvement for alignment and conformance with the established grade. Once this acceptance is garnered, the maintenance and warranty period will commence.

2. Certificate of Completion of the Maintenance and Warranty Period. All of the work required during the warranty period must be completed to the satisfaction of the ~~City Administrator~~Chief Engineer prior to completion certificate issuance and issuance of a warranty completion certificate accepting the improvement.

3. ~~In the event~~ the ~~City Administrator~~BES Chief Engineer does not accept a public sewer or drainage improvement within one year after completion of the warranty period, the permittee must remove the improvement and restore the public area to at least its prior condition or to the extent directed by the ~~BES Chief Engineer or City Administrator~~Engineer at the permittee's expense.

17.32.110 Permit and Review Fees.

~~(Amended by Ordinance 191725, effective July 1, 2024.)~~

Permit and review fees are established by the BES annual rate ordinance required by Chapter 17.36. ~~BES~~The City Administrator may withhold issuance of any permit until applicable connection charges and review fees are paid in full. Multi-tiered permit fees may be applicable.

A. Access, Use and Encroachment Reviews and Permits. Sewer access, use and encroachment permit review fees will recover the cost of BES reviews including all applicable overhead and inspection charges.

B. Connection Permits. Connection permit review fees will recover the cost of all City reviews including all applicable overhead charges for review and inspection. Overhead rates are set annually by the [City Administrator](#)~~Director~~.

C. Public Works Permits. Public works permit review fees recover the true costs of engineering and superintendence services in connection with public sewer or drainage improvement projects based on City records of time, materials, services, overhead and indirect costs incurred to provide the services. Public works permit and review fees recover the costs for all projects completing work whether performed by contract in the name of the City, by private contract between a permittee and a contractor, or directly by the permittee.

D. All fees must be paid prior to receiving a permit and commencing work.

E. BES may withhold a portion of permit fees and charges to cover costs associated with opening and reviewing a permit. Canceled connection, use, encroachment, proximity review and standard public works permits are generally not eligible for refund unless meeting the criteria set by the [City Administrator](#)~~Director~~. Complex public works permits are eligible for refund of the applicable portions of the public works permit deposit not already spent on City design or review services.

17.32.120 Reimbursements for Work.

~~(Amended by Ordinances 191725 and 191736, effective July 1, 2024.)~~

A. Backflow Device Reimbursement. A property owner may submit an application for partial reimbursement of the cost for installation of a sewer backflow device on a combined sewer line. To be eligible, the building or structure must be connected to the City combined sewer system and be in an area vulnerable to sewer backups, as determined by the [City Administrator](#)~~BES Chief Engineer~~. All backflow devices installed pursuant to this Section will be owned by the building owner, who must assume the costs of maintenance, repair and replacement.

1. Backflow devices must be installed per Title 25, Plumbing Regulations.

2. If the reimbursement is approved, the building owner must pay the first \$100 of the cost of such installation, and the City pays the next \$1,500 of such costs. The building owner must pay any amount in excess of \$1,600. Payment to the property owner of the City's share of the expense is made upon ~~the~~ Portland Permitting & Development's final inspection and the owner's submittal of the plumber's billing for the work.

3. City participation in the cost of installation does not guarantee or in any manner warrant any backflow device, nor does the City give any guarantee that the device will prevent future flooding. The City does not assume any responsibility for damages incurred as a result of flooding subsequent to installation of any backflow device. The owner may look to a warranty or

guarantee from the manufacturer of the backflow device or the installation contractor.

B. Sewer and Drainage System Improvements.

1. Improvements Required for Development. As a general rule, all expenses incurred for the construction of public sewer and drainage system improvements required to serve a developing property or as a condition of approval are the sole responsibility of the property owner or their agent. Public sewer and drainage system improvements required to serve the developing property that incidentally benefit other properties, or the City are not eligible for cost-sharing reimbursement, including but not limited to situations where a sewer extension passes properties located between the existing public sewer and the developing property.

2. City-Requested Improvements. When the City requests improvements to the public sewer and drainage system that exceed the applicable City design standards otherwise required to serve the developing property, the City may enter into a mutual cost-sharing agreement with the property owner or their agent. Cost-sharing amounts are based on available funds ~~and may be subject to City Council approval by ordinance~~. Only the proportional costs associated with the excess improvements, as determined by the City Administrator~~BES Chief Engineer~~, are eligible for cost-sharing reimbursement.

3. Amount of Cost Share. As general policy, the City will reimburse the difference in cost between the improvements required to serve the developing property and the additional improvements requested by the City.

a. Certain common improvement types will be reimbursed using standard unit costs that are established based on recent engineering estimates, project costs, and bid estimates.

b. Other improvements that are completed as part of the development project that further the bureau's system planning goals and benefit the City are eligible for cost-sharing reimbursements at the sole discretion of the City Administrator~~Chief Engineer~~. These will be evaluated on a case-by-case basis and documented in a mutual cost-sharing agreement. Bureau-estimated reimbursement amounts will be based on recent, previous construction costs. All reimbursements are subject to available funding.

17.32.130 Inspections.

A. Right of Entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections or for any other lawful purpose. This authorization includes but is not limited to inspection surveying, sampling, testing, photographic documentation,

record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or agreement.

B. Entry Protocols.

1. The BES representative will present a City photo identification card at the time of entry.
2. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

17.32.140 Enforcement.

~~(Amended by Ordinance 191725, effective July 1, 2024.)~~

A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. ~~BES-~~The City Administrator will hold each Responsible Party jointly and severally for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to obtain a permit for actions in Section 17.32.030, including failure to supply correct application materials;
2. Failure to comply with the conditions of a permit;
3. Failure to comply with the conditions of or prohibited access to a public sewer or drainage easement;
4. Failure to comply with a written directive or timeline of the City Administrator~~Director~~ made under authority of this Chapter;
5. Damage, regardless of intent, to any component of the public sewer;
6. Unauthorized modification of the public sewer; and
7. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15).

B. Enforcement Tools. ~~BES-~~The City Administrator may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, withholding of final inspection, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. ~~BES-~~City enforcement actions are described in program-

specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

C. Civil Penalties. A Responsible Party may be assessed civil penalties of up to \$10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

D. Cost Recovery. The ~~Director~~ City Administrator may recover all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15.

E. City Summary Abatement. To the extent permitted by law, the ~~Director~~ City Administrator may recover from a Responsible Party all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;
2. A situation that poses an imminent danger to human health, public safety, or the environment; or
3. Continued noncompliance with Portland Citythis Code or associated rules.

F. Nothing in this Chapter is intended to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

17.32.150 Administrative Reviews, Appeals, and Compliance Cases.

~~(Amended by Ordinances 186902, 189750 and 191725, effective July 1, 2024.)~~

A. Reviews and Appeals. A person may request a modification to a ~~BES~~ City Administrator decision related to this Chapter via an administrative review with BES staff, unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal with the Code Hearings Officer per Title 22 of Portland Citythis Code, unless appeal is limited by administrative rule.

B. BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under Title 22 of Portland Citythis Code to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence.

17.32.160 Conflict.

This Chapter supersedes all ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.32.170 Severability.

~~(Amended by Ordinance 191725, effective July 1, 2024.)~~

If any provision, paragraph, word, or Section of this Chapter or associated administrative rules is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and Sections will not be affected and will continue in full force and effect.

Chapter 17.33 Connection to the Public Sewer

~~(Chapter replaced by Ordinance 191725, effective July 1, 2024.)~~

17.33.010 Intent.

The intent of this Chapter is to support the City's responsibility to protect public health, water quality, and the environment by identifying the general circumstances and site conditions that will require a property owner to connect their property, structure, use or activity to the public sewer as that term is defined in Chapter 17.04. This chapter specifically applies to connections from properties, structures, uses or activities with plumbing facilities that require wastewater disposal to the public sewer.

17.33.020 Definitions.

The following definitions and the definitions of Chapter 17.04 and of Chapter 17.32 apply to this Chapter:

A. Director means the Director of the Bureau of Environmental Services or the Director's designee.

B. Nonconforming private sewer line means a sewer pipe in the public right-of-way (ROW), typically running parallel to the curb or other longitudinal edge, that has not been adopted or accepted as a public improvement by the [City Administrator](#)~~BES Chief Engineer~~.

C. Nonconforming sewer means a private sewer system that accesses the public sewer by any of the following:

1. A sewer lateral draining more than one property that conveys the discharge to the public sewer in the ROW or in a public sewer easement, also known as a "party" sewer. Exception: This does not apply to Middle Housing Land Division (MHL D) shared sewers that meet all City requirements and standards.
2. A sewer lateral crossing one or more properties without the benefit of a recorded easement that meets City standards.

3. A nonconforming private sewer line.
4. A sewer lateral in the public ROW or in a public sewer easement with an alignment or other physical characteristic contrary to the approved standards of the Sewer and Drainage Facilities Design Manual (SDFDM).

D. Onsite wastewater treatment system means any existing or proposed subsurface onsite wastewater treatment and dispersal system, as those terms are used in Oregon Administrative Rules Chapter 340, Divisions 71 and 73.

17.33.030 Sewer Connections.

A property with any of the following circumstances and site conditions must be connected to the public separate sanitary or combined sewer system, which are both considered sanitary sewers for the purposes of this Chapter. All connections to the sanitary sewer must be along an approved route-of-service as described in Chapter 17.32 and BES Administrative Rule ENB-4.07, and comply with City design, construction, maintenance, and operational standards.

A. Plumbing fixtures connected. As a general policy, all plumbing fixtures from which wastewater is or may be discharged must connect to and discharge into the public sewer system. Exceptions to this requirement include situations where it can be demonstrated to the satisfaction of the City that an onsite wastewater treatment system or other alternative means of sewage disposal can otherwise be lawfully permitted.

B. Public sewer is or becomes available. An existing structure served by a lawfully-permitted onsite wastewater treatment system may be required to connect at the discretion of the City, in consultation with the sanitarian, when a public sewer system becomes available. In general, any expansion, remodel, alteration, or change in use that increases the capacity requirements of the onsite wastewater treatment system will require the property owner to abandon the onsite system and connect to public sewer system.

C. Nonconforming sewer. A property using a nonconforming sewer must abandon the nonconforming connection or convert to a conforming sewer connection when noticed by the City. Requirements for converting nonconforming sewer connections are established in BES Administrative Rule ENB-4.27 (BES Nonconforming Sewer Conversion Program).

D. Source Control Manual. A property with structures or activities that are described in Administrative Rule ENB-4.26 (BES Source Control Manual) and that require drainage to the sanitary sewer must connect to the public sewer when required as a condition of a development permit or when the City notifies the property owner thereof.

E. Threat to public health, water quality, or the environment. The City may require a property owner to connect their property, structure, or activity to the public sewer

system pursuant to its jurisdictional authority to protect public health, water quality, and the environment.

17.33.040 Financial Assistance for Required Sewer Connections.

BES may provide financial assistance to eligible property owners to assist with sewer connections and to prevent disruption of service. Financial assistance in the form of loans and payment deferrals is available as described in Administrative Rule ENB-4.28 (BES Financial Assistance Program).

17.33.050 Inspections.

A. Right of entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections, or for any other lawful purpose. This authorization includes but is not limited to inspection surveying, sampling, testing, photographic documentation, record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or agreement.

B. Entry protocols.

1. The BES representative will present a City photo identification card at the time of entry.
2. The BES representative will comply with reasonable, routine, safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.
3. City staff executing an abatement order may enter the property to the extent allowed by law.

17.33.060 Declaration of Nuisance and Abatement Orders.

Any property not connected to the public sewer system as required under this Chapter is hereby declared a nuisance and subject to abatement or correction by the City. The City Administrator ~~Director~~ is authorized to take actions to abate a nuisance, including work in public rights-of-way or easements, authority to order remediation on private or public property, and the expenditure of City funds. If the nuisance described in the notice issued to the property owner is not remedied or evidence is not provided establishing that such nuisance does not exist, the City may request an abatement order from the Code Hearings Officer. The order will include authorization for the City to access private or public property for nuisance abatement purposes. Costs of nuisance abatement incurred by the City may be assessed as a lien against the property in accordance with the provisions of Chapter 22.06.

17.33.070 Enforcement.

A. Violations. It is a violation for any person or responsible party to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES may hold each such person or responsible party solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to make a sewer connection in compliance with the requirements of the Source Control Manual or of this Chapter;
2. Failure to convert or abandon a nonconforming sewer connection;
3. Failure to maintain an existing onsite wastewater treatment system;
4. Any action to obstruct, impede, or interfere with any officer, employee, contractor, agent, or authorized representative of the City who is engaged in work under an abatement order issued by the Code Hearings Officer;
5. Failure to comply with a written order of the [City Administrator](#)~~Director~~, made under the authority of this Chapter, within the specified time; and
6. Failure to comply with enforcement actions as identified in Administrative Rule ENB-4.15 (BES Enforcement Program).

B. Enforcement tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: Notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of City permits, withholding of City services, violation or nuisance abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

C. Civil penalties. A person or responsible party violating this Chapter or associated rules may be assessed civil penalties of up to \$10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program Administrative Rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

D. Cost recovery. The [City Administrator](#)~~Director~~ may recover from the person or responsible party all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15.

E. City summary abatement. To the extent permitted by law, the ~~Director~~ City Administrator may recover from the person or persons responsible for the violation all costs incurred by the City to abate summarily the following:

1. A violation that is not remedied through required corrective actions;
2. A situation that poses an imminent danger to human health, public safety, or the environment; or
3. Continued noncompliance with the PCC or associated rules

F. Notice to responsible parties prior to summary abatement is not required. Following summary abatement, BES will notify all persons identified as having directed or benefitted from the violation. An error in the name of a property owner or address listed in the county assessment or taxation records will not affect the sufficiency of the notice. BES will bill each responsible party in order to recover the costs of the abatement.

G. Nothing in this Chapter is intended to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

17.33.080 Administrative Reviews, Appeals, and Compliance Cases.

A. Administrative reviews and appeals. An affected property owner may request a modification to a BES decision related to this Chapter via an administrative review with BES staff unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative reviews, the requestor may file for an appeal with the Code Hearings Officer per Title 22 unless appeal is limited by administrative rule.

B. BES Code compliance cases. BES may file a case before the Code Hearings Officer under Title 22 to order compliance with City regulations. Any property owner who fails to comply with this Chapter or associated administrative rules may be summoned to a Code hearing. The Code Hearings Officer is authorized to order compliance with City sewer connection regulations, including site entry to construct a compliant connection to the public sewer.

17.33.090 Conflict.

Except as expressly provided by the City Council, this Chapter supersedes all ordinances and elements of ordinances to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.33.100 Severability.

If any provision, paragraph, word, or Section of this Chapter or associated rules is invalidated by any court of competent jurisdiction, the remaining provisions,

paragraphs, words, and Sections will not be affected and will continue in full force and effect.

Chapter 17.34 Sanitary Discharges

~~(Chapter added by Ordinance 153801; amended by Ordinances 163816 and 180037, effective April 28, 2006.)~~

17.34.005 Intent of Chapter.

~~(Added by Ordinance 180037, effective April 28, 2006.)~~

It is the intent of the City to provide needed sewer service to all users while meeting the outlined objectives. This Chapter provides the structure under which the service will be provided for industrial wastewater dischargers so that the system is protected and can continue to provide efficiently for the wastewater treatment needs of the City. This chapter describes a group of regulations that applies to all sanitary discharges, including those regulated under BES Pre-treatment and City discharge authorization programs. This chapter applies to all separate sanitary and combined sewer systems, which are both considered sanitary sewers for the purposes of this chapter.

17.34.010 Declaration of Policy.

~~(Amended by Ordinances 172879, 180037 and 185397, effective July 6, 2012.)~~

It is the policy of the Bureau of Environmental Services (BES) to provide the planning, engineering and administration necessary to develop and manage sewer facilities that are adequate for the conveyance, treatment and disposal of waste water from within the cCity and to operate the sewer system in such a manner which that protects public health and the environment. In carrying out this policy, the objectives of this Chapter are:

- A.** to prevent pollutants from entering the sewer system which-that will-would interfere with its normal operation or contaminate the resulting sludge;
- B.** to prevent the introduction of pollutants into the sewer system which-will-that would not be adequately treated and will pass through into the environment;
- C.** to improve the opportunity for recycling and reclamation of wastewater and sludge;
- D.** to insure protection of worker safety and health;
- E.** to insure that all dischargers comply with applicable federal, state and local laws and regulations governing wastewater discharges and that sanctions for failure to comply are imposed.

17.34.020 Definitions.

(Replaced by Ordinance 185397; amended by Ordinances 185870, 186403 and 186902, effective December 26, 2014.)

As used in this Chapter and associated rules, the following definitions apply:

A. “Branch Sewer” means the public portion of the underground piping system that connects from the plumbing system of a building or buildings to a public sewer.

B. “Categorical Pretreatment Standards” mean limitations on pollutant discharges to POTWs from specific types of new or existing industrial users. These standards are promulgated by the EPA in accordance with Sections 307 (b) and (c) of the Clean Water Act. This term includes prohibitive limitations established pursuant to 40 CFR 403.5

C. “Clean Water Act (CWA)” means the Federal Water Pollution Control Act, as amended (33 U.S.C. §1251 et seq.).

D. “Combined Sewer” means a sewer designed to convey both sanitary sewage and stormwater.

E. “Director” means the Director of The Bureau of Environmental Services or the Director’s designee.

F. “Discharge” means any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching, leaking, or placing of any material so that such material enters or is likely to enter a waterbody, groundwater, or a public sewer or drainage system.

G. “Discharge Authorization (DA)” means a written approval by the Director City Administrator ~~which that~~ prescribes certain requirements or restrictions for a discharge to the City sewer and drainage system.

H. “Discharger” means any person who causes or permits a direct or indirect discharge to the City’s sewer and drainage system.

I. “Domestic Waste” means any waste consistent with that generated from single or multiple residential dwellings including, but not limited to, wastes from bathrooms, laundries and kitchens.

J. “Domestic Wastewater” means any water that contains only domestic waste.

K. “Hazardous Substance” means any substances referenced in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S. Code §9601 et seq.), section 502(13) of the Clean Water Act or other substance at concentrations specified in those lists or, if no concentration is specified, at concentrations designated by the City Administrator ~~Director~~.

L. “Industrial User” means any person who discharges industrial or commercial wastewater to the City sewer system.

M. “Industrial Wastewater” means any discharge resulting from, or used in connection with, any process of industry, manufacturing, commercial food processing, business, agriculture, trade or research. Industrial wastewater includes, but is not limited to, the development, recovery or processing of natural resources and leachate from landfills or other disposal sites.

N. “Industrial Wastewater Discharge Permit” means a permit to discharge industrial wastewater into the City sewer system that is issued under Section 17.34.070 and ~~which that~~ prescribes certain discharge requirements and limitations.

O. “Interference” means a discharge that alone or in conjunction with other discharges, inhibits or disrupts the normal operation of the City sewer system or contributes to a violation of any requirement of the POTW’s NPDES permit. This includes any increase in the magnitude or duration of a violation, any increase in cost due to damage to the system, additional treatment of sewage, sewage sludge use or disposal, or in compliance with local, state or federal regulations or permits related to sewage treatment and sludge disposal.

P. “National Pollutant Discharge Elimination System (NPDES)” means the Clean Water Act (40 CFR Part 122) regulations that require dischargers to control and reduce pollutants in discharges to waters of the United States

Q. “Pollutant” means an elemental or physical material that can be mobilized or dissolved by water or air and that could create a negative impact to human health, safety, or the environment.

R. “POTW” means Publicly Owned Treatment Works, which includes any devices and systems, owned by a sState or municipality, used in the collection, transportation, storage, treatment, recycling and reclamation of wastewater.

S. “Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater in accordance with federal, state and local laws, regulations and permits prior to or in lieu of discharging or otherwise introducing such pollutants into the City sewer system.

T. “Slugload” means any discharge that is non-routine or episodic and that has a reasonable potential to cause interference, pass-through, or violation of applicable local, state or federal regulations, including City local limits or conditions of the City’s NPDES permit. Slugloads include but are not limited to accidental spills and non-customary batch discharges.

U. “Toxic Substance” means any chemical listed in Oregon’s water quality standards for toxic pollutant tables in OAR, Division 340-041-0033; the CWA effluent guidelines list of toxic pollutants at 40 CFR 401.15; or the toxic chemical release

reporting specific toxic chemical listings at 40 CFR 372.65 at concentrations specified in those lists or, if no concentration is specified, at concentrations designated by the City Administrator~~Director~~.

V. “Upset” means an exceptional incident in which a discharger temporarily is in a state of noncompliance with the applicable categorical pretreatment standards of this Chapter or associated rules. Upset must be due to factors beyond the reasonable control of the discharger and not caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation of treatment facilities.

W. “Wastewater” means any non-domestic sewage flows including but not limited to washwaters, industrial wastewater, commercial discharges, and other nonstormwater discharges.

~~17.34.025 Authority of Director of Environmental Services to Adopt Rules.~~

~~(Repealed by Ordinance 185397, effective July 6, 2012.)~~

17.34.030 General Discharge Prohibitions.

~~(Amended by Ordinances 172879, 180037 and 185397, effective July 6, 2012.)~~

A. It is unlawful to discharge industrial wastewater into the City sewer system except in compliance with this Chapter and associated rules ~~adopted hereunder~~.

B. Prohibited discharges. It is unlawful to discharge, cause to discharge, or allow to discharge directly or indirectly into the City sewer system any substance, alone or in combination with others, that may inhibit, interfere with, injure, harm, damage, create a hazard to or impair the performance of the City’s conveyance, collection or treatment processes and systems. Prohibited discharges also include those that create or could create a nuisance or a threat to human health or the environment or that:

1. Contains substances that are not amenable to treatment or reduction by the sewage treatment process employed or are only partially amenable to treatment;
2. Contain liquids, solids, or gases which that, either alone or by interaction, may cause a fire or an explosion or injure the sewer system or wastestreams;
3. Have a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using test methods prescribed at 40 CFR 261.21 or could cause the atmosphere in any portion of the sewer system to reach a concentration of 10 percent or more of the Lower Explosive Limit (LEL);
4. Contain solids or viscous substances which that may solidify or become discernibly viscous at temperatures above 0 degrees Celsius (32 degrees

Fahrenheit) or are capable of obstructing the flow of wastewater or cause other interference with the operation of the sewer system;

5. Contain noxious, malodorous or toxic liquids, gases, vapors, fumes, or solids, in amounts that may violate the general prohibitions of Subsection 17.34.030 B.;

6. Contains hazardous or toxic substances, either alone or in combination with other substances may adversely affect receiving waters or in amounts that may violate the general prohibitions of Subsection 17.34.030 B.;

7. Have a pH of less than 5.0 or more than 11.5 without prior approval by the [City Administrator](#)~~Director~~;

8. Are hotter than 65 degrees Celsius (149 degrees Fahrenheit) or are hot enough to inhibit biological activity or cause the temperature of the treatment plant influent to exceed 27 degrees Celsius (80 degrees Fahrenheit);

9. Contain material trucked or hauled from a cesspool, holding or septic tank or any other nondomestic source, except such material received at designated locations under City contract or permit;

10. Contain any material other than domestic waste larger than 0.65 centimeters (1/4 inch) in any dimension;

11. Contain dissolved solids may violate the general prohibition of Subsection 17.34.030 B.;

12. Contain excessive color ~~which~~[that](#) is not removed in the treatment process;

13. Contain radioactive material, except in compliance with a current permit issued by the Oregon State Health Division or other state or federal agency having jurisdiction;

14. Contain petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that may cause interference or pass through;

15. Contain non-contact cooling water without prior approval by the [City Administrator](#)~~Director~~;

16. May cause sewer system effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse;

17. Constitute a slugload per administrative rule;

18. Constitute a batch discharges without written permission from the [City Administrator](#)~~Director~~;

19. Exceeds discharge limits adopted in permits or administrative rules;

20. May cause the City to violate the terms of its NPDES permit; or

21. May cause the City to violate sludge use or disposal criteria, treatment guidelines, or other applicable regulations developed under the Clean Water Act (33 USC 1251-1387), the Solid Waste Disposal Act (42 USC 6901-6992k), the Clean Air Act (42 USC 7401 -7671q), the Toxic Substances Control Act (15 USC 2601-2692), or any other federal or state statutes.

C. A discharge or flow resulting from an emergency situation such as a water line break or fire-fighting by the [Portland Fire Department Bureau](#) ~~shall~~ will not be prohibited from discharging to the sewer during the period of the emergency. Any repairs made after the period of emergency has ceased will comply with all regulations of [Portland City](#) ~~this~~ Code.

17.34.040 Discharge Limitations.

~~(Amended by Ordinance 185397, effective July 6, 2012.)~~

A. It is unlawful for a discharger to discharge wastes or wastewater to the City sewer system in excess of limitations established in an industrial wastewater discharge permit or in violation of the prohibited discharges in Section 17.34.030. The [City Administrator](#) ~~Director of Environmental Services~~ shall will establish specific discharge limitations under separate rules to meet the objectives of this Chapter.

B. It is unlawful for a discharger to use dilution as a partial or complete substitute for adequate treatment to achieve compliance with the standards and limitations set forth in this Chapter, administrative rules, or in an industrial wastewater discharge permit issued pursuant to the Chapter. The [Director](#) City Administrator may impose mass limitations on dischargers who are using dilution to meet the applicable pretreatment standards or requirements of this Chapter, administrative rules or in other cases where the [Director](#) City Administrator determines that the imposition of mass limitations is appropriate.

C. The [City Administrator](#) ~~Director~~ may authorize the use of equivalent concentration limits in lieu of mass limits for certain industrial categories, and allow the conditional use of equivalent mass limit in lieu of concentration-based limits where appropriate.

D. Termination or limitation. Notwithstanding prior acceptance into the City sewer system of industrial wastewater, if the [City Administrator](#) ~~Director~~ finds that industrial wastewater from a particular commercial or industrial occupancy or a class of similar occupancies cause or may cause damage, interference, hazard or nuisance to the City sewer system, City personnel or the receiving waters, the [City Administrator](#) ~~Director~~ may limit the characteristics or volume of the industrial wastewater accepted or may terminate acceptance. Notice of the limitation or termination ~~shall~~ will be

given in writing to the occupant of the property or posted on the property involved, and ~~shall~~will specify the date when the limitation or termination is to be effective. It is unlawful for any person to discharge or permit the discharge of industrial wastewater in violation of this notice.

17.34.050 Pretreatment and Pollution Control Required.

~~(Amended by Ordinances 185397, 186902 and 189506, effective June 21, 2019.)~~

A. The ~~City Administrator~~ Director may require dischargers to install treatment facilities or make structural modifications to their facilities or equipment, or make operation changes, process modifications, or take other measures to protect the City sewer system, to comply with requirements of this Chapter or any applicable state or federal requirements. The ~~City Administrator~~ Director may require that such actions be taken within the shortest reasonable time. Compliance deadlines will be based on construction time and the confirmed or potential impact of the untreated industrial wastewater on the City sewer system. Such structures and site modifications must be reviewed and approved by the ~~City Administrator~~ Director to determine sufficiency.

B. Any requirement of this Chapter may be incorporated as a part of an industrial wastewater discharge permit issued under Section 17.34.070 or any other enforcement document and made a condition of issuance of such permit or discharge authorization for the industrial wastewater from such facility.

C. Plans, specifications and other information relating to the construction or installation of required pretreatment facilities and source control measures must be submitted to the ~~City Administrator~~ Director. A permit or permit review may be required. No construction or installation may commence until written approval of plans and specifications by the ~~City Administrator~~ Director is obtained. No person, by virtue of such approval, will be relieved of compliance with other local, state or federal laws relating to construction and permits. Every facility must be constructed in accordance with the approved plans and specifications and installed and maintained at the expense of the discharger.

17.34.060 Accidental Spill Prevention and Control.

~~(Replaced by Ordinance 185397, effective July 6, 2012.)~~

A. Notification. Any person becoming aware of spills or uncontrolled discharges of hazardous or toxic substances or of substances prohibited under Section 17.34.030 directly or indirectly into the City sewer system must immediately report such discharge by telephone to the Director and to any other authorities required under other local, state, or federal laws or regulations.

B. Written notice. Within 5 days following an accidental discharge as described in Subsection A. above, the discharger ~~shall~~must submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken to

prevent similar future occurrences. Such notification will not relieve the discharger from any fines, civil penalties, or other liability ~~which that~~ may be imposed under the authority of this Chapter, ~~associated or~~ rules, ~~adopted hereunder~~ or other applicable law.

C. Posted notice. A notice ~~that~~ inform~~ing~~ employees of an industrial wastewater discharger of the notification requirement ~~in Sub-Section 17.34.060 A.~~ above ~~which and that~~ contains information regarding reporting in the event of such a discharge ~~shall must~~ be posted in a conspicuous place and ~~shall must~~ be visible to all employees who may reasonably be expected to observe such a discharge.

D. Preventive measures. Direct or indirect connections or entry points ~~which that~~ could allow spills or uncontrolled discharges of hazardous or toxic substances or of substances prohibited under Section 17.34.030 to enter the City sewer system must be eliminated or labeled and controlled so as to prevent the entry of wastes in violation of this Chapter. The ~~City Administrator Director~~ may require the discharger to install or modify equipment or make other changes necessary to prevent such discharges as a condition of issuance of an industrial wastewater discharge permit or as a condition of discharge authorization to the City sewer system. A schedule of compliance ~~shall will~~ be established by the ~~City Administrator Director~~ for completion of required actions within the shortest reasonable period of time. Inability to comply with this schedule without an extension of time by the ~~City Administrator Director~~ is a violation of this Chapter.

E. Accidental Spill Prevention Plans.

1. Dischargers that handle, store or use hazardous or toxic substances or substances prohibited under Section 17.34.030 on their sites ~~shall must~~ prepare and submit to the ~~City Administrator Director~~ an Accidental Spill Prevention Plan, according to the requirements set out in administrative rule, within 60 days after notification by the ~~City Administrator Director~~ or as required by an industrial wastewater discharge permit.

17.34.070 Industrial Wastewater Discharge Permits.

~~(Amended by Ordinances 165068, 172879, 185397, 189506 and 189750, effective November 29, 2019.)~~

A. Requirement for a permit. Except as provided in Subsection 17.34.070 B., an industrial wastewater discharger must have an industrial wastewater discharge permit prior to discharging into the City sewer system if:

1. The discharge is required to be permitted under procedures contained in the City's approved pretreatment program; or
2. The discharger is a Significant Industrial User, which includes:

a. All industrial users subject to Categorical Pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and

b. Any other industrial user that:

(1) Discharges an average of at least 25,000 gallons per day or more of process wastewater to the POTW (excluding domestic, noncontact cooling and boiler blowdown wastewater);

(2) Contributes a process waste stream ~~which that~~ makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(3) Is designated as such by the ~~City Administrator~~Director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement in accordance with 40 CFR 403.8(f)(6),

3. The ~~City Administrator~~Director may determine that an industrial user meeting the criteria above is not a "Significant Industrial User" if the discharge has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement in accordance with 40 CFR 403.8(f)(6).

B. Existing discharges.

1. If discharges occur prior to the date that an industrial wastewater discharge permit is required, the discharger ~~shall~~will be notified in writing by the ~~City Administrator~~Director that such a permit is required. Such existing dischargers ~~shall~~may be allowed to continue discharging into the City sewer system without an industrial wastewater discharge permit until a permit is issued or denied, provided the discharger files a completed environmental survey and application for an industrial wastewater discharge permit within 90 days of receipt of the notice.

2. Discharges that require an industrial wastewater discharge permit and are allowed to continue discharging without such a permit under Subsection 17.34.070 B.1. ~~shall~~must comply with the requirements of this Chapter and ~~associated~~ rules ~~adopted hereunder~~.

C. Application for industrial wastewater discharge permit.

1. Existing Significant Industrial Users, ~~shall~~must submit application for a permit on a form provided by the ~~City Administrator~~Director within 180 days after the effective date of a categorical pretreatment standard issued by the U.S. EPA or within 90 days after receiving notification from the ~~City~~

~~Administrator~~ ~~Director~~ that such a standard has been issued, whichever is sooner.

2. New Source Dischargers. Any new source discharger determined by the ~~City Administrator~~ ~~Director~~ to be a Significant Industrial User ~~shall~~ must submit an application for a permit on a form provided by the ~~City Administrator~~ ~~Director~~ within 90 days of notification by the ~~City Administrator~~ ~~Director~~. However, a new source discharger may not discharge to the sewer system without a permit.

3. Submission of the application for permit required by this Section will satisfy the requirements of 40 CFR 403.12(b).

4. The application for permit ~~shall~~ will not be considered complete until all information required by the application form, requirements of this Chapter, or by administrative is provided. All fees must be paid and the certification statement required by 40 CFR 403.12(b)(6) signed by the authorized representative. The ~~City Administrator~~ ~~Director~~ may grant specific exemptions for these items.

D. Issuance of industrial wastewater discharge permits.

1. Industrial wastewater discharge permits ~~shall~~ will be issued or denied by the ~~City Administrator~~ ~~Director~~ within 90 days after a completed application is received, unless that period is extended in writing by the ~~City Administrator~~ ~~Director~~ for good and valid cause.

2. Industrial wastewater discharge permits ~~shall~~ will contain conditions ~~which~~ that meet the requirements of this Chapter, administrative rules and applicable state and federal laws and regulations.

3. If pretreatment facilities are needed to meet the applicable pretreatment standards or requirements in an industrial wastewater discharge permit, the permit ~~shall~~ will require the installation of such facilities on a compliance schedule.

4. Whenever an industrial wastewater discharge permit requires installation or modification of pretreatment facilities or a process change necessary to meet discharge standards or spill control requirements, a compliance schedule ~~shall~~ will be included ~~which~~ that establishes the date for installation of the pretreatment facilities or process changes. The compliance schedule may contain appropriate interim dates for completion of specified tasks. Compliance dates established in a permit cannot exceed federal categorical deadline dates.

5. Industrial wastewater discharge permits ~~shall~~ will expire no later than 5 years after the effective date of the permit and ~~shall~~ may not be transferable except with prior notification and approval from the ~~City Administrator~~ ~~Director~~.

6. The City Administrator ~~Director~~ may deny the issuance of an industrial wastewater discharge permit if the discharge could result in violations of local, state or federal laws or regulations; cause interference or damage to any portion of the City sewer system; or create an imminent or potential hazard to human health or the environment.

E. Modification of permits.

1. An industrial wastewater discharge permit may be modified for good and valid cause at the written request of the permittee or at the discretion of the City Administrator ~~Director~~.

2. Permittee modification requests ~~shall~~ must be submitted to the City Administrator ~~Director~~ and ~~shall~~ must contain a detailed description of all proposed changes in the discharge. The City Administrator ~~Director~~ may request any additional information needed to adequately review the application or assess its impact.

3. The City Administrator ~~Director~~ may deny a request for modification if they determine that the change will result in violations of local, State or federal laws or regulations, will cause interference or damage to any portion of the City sewer system, or will create an imminent or potential hazard to human health or the environment.

4. If a permit modification is made at the direction of the City Administrator ~~Director~~, the permittee ~~shall~~ will be notified in writing of the proposed modification at least 30 days prior to its effective date and informed of the reasons for the changes.

F. Change in a permitted discharge. A modification to the permittee's discharge permit must be issued by the City Administrator ~~Director~~ before any significant increase is made in the volume or level of pollutants in an existing permitted discharge to the City sewer system. Changes in the discharge involving the introduction of a wastewater not previously included in the industrial wastewater discharge permit application or involving the addition of new pollutants ~~shall~~ will be considered new discharges, requiring application under Section 17.34.070.

G. Renewal of Permits. A permittee ~~shall~~ must apply for renewal of its industrial wastewater discharge permit at least 90 days prior to the expiration date of the existing permit. Upon timely application for renewal, an existing permit will remain effective until the renewed permit is issued or denied.

H. Administrative review and appeal of permit or permit modification. Upon receipt of an industrial wastewater discharge permit or permit modification, a permittee may request administrative review of any of its terms or conditions in accordance with provisions established in this Chapter and its associated administrative rules. After a permittee has exhausted BES administrative review, a permittee may appeal any of the permit's terms or conditions to the Code Hearings Officer in accordance with

procedures set out at Chapter 22.10 of ~~the Portland City~~[Portland City](#) Code. Administrative review by BES and appeal to the Code Hearings Officer may be limited by administrative rule.

17.34.075 Other Sanitary Discharge Permits or Authorizations

~~(Added by Ordinance 180037, effective April 28, 2006.)~~

The City may require authorization for any discharge to the sanitary or combined sewer of materials that violate the discharge prohibitions listed in 17.34.030.

A. Authorization may take the form of a written authorization for an intermittent or ongoing discharge. Authorization may also require the adherence to management practices to reduce pollutant releases associated with the authorized discharge

B. Dischargers may be required to provide:

1. Evaluation of the proposed discharge, including: sampling, prior to being granted authorization to discharge.

2. Adequate information and access to the location or process creating the discharge, to allow the City to fully evaluate any pretreatment needs for authorizing the discharge.

C. The City may require pretreatment for any discharge to the City's sewer system, including but not limited to requirements specified in 17.34.050.

D. Non-compliance with these requirements is subject to the enforcement steps specified in 17.34.110 and in the associated Sanitary System Discharge administrative rules.

17.34.080 Inspection and Sampling.

~~(Amended by Ordinance 185397 and 186192, effective September 6, 2013.)~~

A. Inspection.

1. Right of Entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections or for any other lawful purpose. This authorization includes but is not limited to inspection, sampling, testing, photographic documentation, record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or other type of agreement. The City may install on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and metering operations.

2. Entry Protocols.

- a. The BES representative will present a City photo identification card at the time of entry;
- b. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

B. Sampling.

1. Samples of wastewater being discharged into the sewer system must be representative of the discharge. Other sampling locations may be required by permit. All sampling and analyses ~~shall~~ must be performed in accordance with the procedures set forth in 40 CFR Part 136, as amended, and any amendments thereto or and with any other test procedures approved by EPA. If there are no approved test procedures the City Administrator ~~Director~~ may approve other analytical procedures. The results of all samples taken ~~shall~~ must be reported.

2. Samples taken by City personnel for the purpose of determining compliance with the requirements of this Chapter or administrative rule may be split with the discharger, or a duplicate sample provided in the instance of fats, oils and grease, if requested by the discharger before or at the time of sampling.

C. Sampling manhole or access. The City Administrator ~~Director~~ may require an industrial wastewater discharger to install and maintain at the discharger's expense a suitable monitoring access such as a manhole in the discharger's branch sewer to allow observation, sampling and measurement of all industrial wastewaters being discharged into the City sewer system. Any monitoring access must be constructed in accordance with plans approved by the City Administrator ~~Director~~ and must be designed so that flow measuring and sampling equipment can be conveniently installed. Access to the monitoring access must be available to City representatives at all times.

17.34.090 Reporting Requirements.

~~(Replaced by Ordinance 185397, effective July 6, 2012.)~~

A. Periodic compliance reports.

1. The City Administrator ~~Director~~ may require reporting by industrial wastewater dischargers that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge,

determine the treatability of the effluent, or determine any other factor ~~which~~ that is related to the operation and maintenance of the sewer system.

2. The Discharger must submit reports to the ~~City Administrator Director~~ during the months of June and December, unless required on other dates or more frequently by the ~~City Administrator Director~~ based on the nature of the effluent over the previous reporting period.

3. The report must include a record of the mass and concentrations of the permit-limited pollutants that were measured. Reports ~~shall~~ must include a record of all flow measurements taken at designated sampling locations. The ~~City Administrator Director~~ may accept reports of average and maximum flows estimated by verifiable techniques if the ~~City Administrator Director~~ determines that actual measurement is not feasible. Additional information ~~shall~~ must be included as required by this Chapter or administrative rules.

4. The ~~City Administrator Director~~ may require self-monitoring by the discharger or, if requested by the discharger, ~~the City Administrator~~ may agree to have BES staff perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this Section.

B. Final Compliance Report. Any discharger subject to Subsection 17.34.090 A. must submit to the ~~City Administrator Director~~ a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge and the average and maximum daily flow in gallons. The report must state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and pretreatment is necessary to bring the discharger into compliance. The discharger must submit reports.

1. Within 90 days following the date for final compliance with applicable pretreatment standards and requirements set forth in this Chapter, administrative rule, or an industrial wastewater discharge permit; or

2. If the discharger is a new source discharger, within 30 days following commencement of the introduction of wastewater into the City sewer system by the discharger.

C. The discharger ~~shall~~ must certify and sign all applications, reports, and reporting information in accordance with 40 CFR 403.12.L and 403.6(a)2(ii);

D. Confidential information.

1. Any records, reports or information obtained under this Chapter or administrative rule will be available to the public or any governmental agency without restriction; unless classified by the ~~City Administrator Director~~ as confidential. In order to obtain a confidential classification on all or part of any records, reports or information submitted, the discharger must:

- a. Submit a written request to the City Administrator ~~Director~~ identifying the material that is desired to be classified as confidential and;
- b. Demonstrate to the satisfaction of the City Administrator ~~Director~~ that records, reports, or information ~~or particular parts thereof,~~ are exempt from disclosure pursuant to the Oregon Public Records Law.

2. Effluent data, as defined in 40 CFR 2.302, submitted pursuant to this Chapter ~~shall~~ may not be classified as confidential.

3. Records, reports, or information ~~or parts thereof~~ classified as confidential by the City Administrator ~~Director~~ will not be released or made part of any public record or hearing unless such release is ordered by the District Attorney or a court of competent jurisdiction; provided, however, such confidential information will, when required by law or governmental regulation, and upon written request, be made available to state or federal agencies having jurisdiction, duties or responsibilities relating to this Chapter, the National Pollutant Discharge Elimination System or applicable Oregon laws and regulations.

F. Notification of Hazardous or Toxic Substance Discharge. An industrial user ~~shall~~ must notify the City Administrator ~~Director~~ in writing of any discharge into the sewer system of a substance ~~which that,~~ if otherwise disposed of, would be a hazardous waste or toxic substance. Such notification ~~shall~~ must be in accordance with the requirements of rules adopted pursuant to this Chapter.

G. Notification of Violation. An industrial user ~~shall~~ must report noncompliance with permit limits within 24 hours of becoming aware of the noncompliance. The industrial user ~~shall~~ must repeat the sampling and analysis and submit results to the City Administrator ~~Director~~ within 30 days of becoming aware of the violation.

H. Notification of Changed Discharge. All industrial users ~~shall~~ must promptly notify the City Administrator ~~Director~~ in advance of any substantial change in the volume or character of pollutants in their discharge.

17.34.110 Enforcement.

~~(Replaced by Ordinance 186192, effective September 6, 2013.)~~

A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to obtain a permit when required for discharge, including failure to supply correct application materials;

2. Failure to comply with the conditions of a permit;

a. Exceedances of discharge limits. Each pollutant discharge that exceeds a discharge limit is considered a separate violation;

3. Discharges prohibited by PCC Section 17.34.030;

4. Failure to comply with a written directive or timeline of the [City Administrator](#)~~Director~~ made under authority of this Chapter;

5. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15); and

6. Where a discharge causes interference or pass through, the discharger may have a valid affirmative defense if it is demonstrated that:

a. The discharger did not know or have reason to know that the discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and

b. The discharge was in compliance with properly developed local limits prior to and during the pass through or interference; or

c. If a local limit designed to prevent pass through or interference has not been developed for the pollutants that caused the pass through or interference, the discharge:

(1) Occurred prior to and during the pass through or interference; and

(2) Did not change substantially in nature or constituents from prior discharge activity ~~which-that~~ was regularly in compliance with the requirements of this Chapter and associated rules.

B. Significant Non-compliance. Any significant industrial user or any other discharger who violates the criteria described in 3, 4, 5 or 9 of this Subsection will be considered to be in significant non-compliance with this Chapter for one or more of the following:

1. Chronic violations of wastewater discharge limits. Chronic violations occur when at least 66 percent of all of the measurements taken during a 6-month period exceed any pretreatment standard for the same pollutant parameter.

2. Technical Review Criteria (TRC) violations. TRC violations occur when at least 33 percent of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the pretreatment standard multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease; and 1.2 for all other pollutants except pH).

3. Any other violation of any pretreatment standard that the [City Administrator](#)~~Director~~ determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).
4. Any discharge of a pollutant that has caused imminent danger to human health, welfare or to the environment.
5. Any discharge that requires the [City Administrator](#)~~Director~~ to use emergency authority to halt or prevent discharge.
6. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in an industrial wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
7. Failure to provide, within 30 days after the due date, required reports such as applications, baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
8. Failure to accurately report noncompliance.
9. Any other violation or group of violations that the [City Administrator](#)~~Director~~ determines will adversely affect the operation or implementation of the local pretreatment program.

C. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

D. Civil Penalties. Dischargers violating this Chapter or associated rules may be assessed civil penalties of up to \$10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Failure to pay a civil penalty within 30 days following a final determination regarding the penalty is grounds for permit revocation or termination of the permittee's discharge. Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

E. Cost Recovery. The [City Administrator](#)~~Director~~ may recover all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15. Failure to pay costs related to a civil penalty or summary abatement within 30 days following a final

determination is grounds for permit revocation or termination of the permittee's discharge.

F. City Summary Abatement. To the extent permitted by law, the [City Administrator Director](#) may recover from the person causing the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;
2. A situation that poses an imminent danger to human health, public safety, or the environment; or
3. Continued noncompliance with PCC or associated rules.

G. Nothing in this Chapter is intended to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

H. Termination or prevention of a discharge or permit revocation.

1. The [City Administrator Director](#) may terminate or prevent a discharge into the City sewer system or revoke an industrial wastewater discharge permit if:

a. The discharge or threatened discharge presents or may present:

- (1) A danger to human health or welfare or the environment; or
- (2) Potential interference with the operation of the City sewer system;

b. The permit to discharge into the City sewer system was obtained by misrepresentation of any material fact or by lack of full disclosure;

c. The discharger violates any requirement of this Chapter or an industrial wastewater discharge permit; or

d. Such action is directed by a court of competent jurisdiction.

2. Notice of termination of discharge or permit revocation will be provided to the discharger or posted on the subject property prior to terminating the discharge or revoking a permit.

a. In situations that do not present an imminent danger to health or the environment or an imminent threat of interference with the sewer system, the notice will:

- (1) Be provided in writing;

(2) Contain the reasons for the termination of the discharge or permit revocation;

(3) Contain the effective date of City action;

(4) Contain the duration of the termination;

(5) Provide contact information of a City contact;

(6) Be signed by the [City Administrator](#)~~Director~~; and

(7) Will be received or refused at the business address of the discharger no less than 30 days prior to the effective date of termination.

b. In situations where there is an imminent danger to human health or welfare or the environment or an imminent threat of interference with the operation of the sewer system, the [City Administrator](#)~~Director~~ may immediately terminate an existing discharge, prevent a new discharge, or revoke a permit after providing informal notice to the discharger or after posting such notice on the subject property. Informal notice may be verbal or written and will include the effective date and time and a brief description of the reason. Within 3 working days following the informal notice, a written formal notice as described in Subsection 17.34.110 H.2.a. will be provided to the discharger.

3. The [City Administrator](#)~~Director~~ may reinstate an industrial wastewater discharge permit that has been revoked or may reinstate industrial wastewater treatment service upon clear and convincing proof by the discharger of the elimination of the noncompliant discharge or conditions creating the threat of endangerment or interference.

I. Annual Publication. A list of Significant Industrial Users that BES considers to be in significant non-compliance with this Chapter ~~shall~~will be published annually in the newspaper of general circulation in Portland, summarizing the enforcement actions taken against industrial users during a prior twelve month period.

17.34.115 Requests for Reconsideration.

~~(Replaced by Ordinance 186192; Amended by Ordinances 186902 and 189750, effective November 29, 2019.)~~

Administrative Review and Appeal. A person may request a modification to a [BES City Administrator](#) decision related to this Chapter via an administrative review with BES staff, unless administrative review is limited by administrative rule. After the requestor has exhausted all administrative review, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22, unless appeal is limited by administrative rule.

17.34.120 Records Retention.

~~(Amended by Ordinances 172879 and 185397, effective July 6, 2012.)~~

All dischargers subject to this Chapter ~~shall~~must retain and preserve for no less than 3 years all records, books, documents, memoranda, reports, correspondence and summaries relating to monitoring, sampling and chemical analyses made by or in behalf of the discharger in connection with its discharge. This period of retention may be extended per 40 CFR 493.12(o)(2) when requested by the ~~City Administrator~~Director, DEQ, or EPA during the course of any unresolved litigation regarding the discharger. The discharger ~~shall~~must retain and preserve all records ~~which that~~ pertain to matters ~~which that~~ are the subject of any enforcement or litigation activities brought by the City until all enforcement activities have concluded and all appeals deadlines have expired.

17.34.130 Conflict.

~~(Amended by Ordinance 186192, effective September 6, 2013.)~~

This Chapter supersedes all other ordinances ~~and their~~or elements ~~thereof~~ to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.34.140 Severability.

~~(Amended by Ordinance 186192, effective September 6, 2013.)~~

If any provision, paragraph, word, or Section of this Chapter or associated rules is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, Sections and Chapters ~~shall~~will not be affected and ~~shall~~will continue in full force and effect.

17.34.150 Fees.

~~(Amended by Ordinances 173138, 173414, 181846 and 185397, effective July 6, 2012.)~~

A. The ~~Director~~Council ~~shall~~will set annual fees by ordinance for all industrial wastewater discharge permits. In proposing fees to the Council, t~~The~~ City ~~Administrator~~Director ~~shall~~will consider: process wastewater discharge flow; industrial user classification; permit status (new or renewed); self-monitoring frequency; city monitoring frequency; regulatory history and any regulatory permits or special requirements.

B. Permit fees. Fees for each fiscal year are set July 1 and billed as soon after the following January 1 as is practical.

C. The ~~Director~~Council ~~may~~ also ~~have authority to~~ set fees for all non-routine, non-domestic batch discharges to the sewer system. Service fees for such discharges not otherwise addressed in an industrial wastewater discharge permit

~~shall will~~ be calculated at a rate per occurrence, in addition to other applicable charges. The rate ~~shall will~~ be established, annually, by general ordinance.

~~17.34.160 Requests for Reconsideration.~~

~~(Repealed by Ordinance 185397, effective July 6, 2012.)~~

Chapter 17.35 Septage Discharge

~~(Chapter added by Ordinance 143978, effective July 1, 1977.)~~

17.35.010 Definitions.

~~(Replaced by Ordinance 185397, effective July 6, 2012.)~~

As used in this Chapter the following definitions apply:

A. “Columbia Boulevard Wastewater Treatment Plant (CBWTP)” means the City of Portland’s wastewater treatment plant located at 5001 N. Columbia Boulevard, Portland, Oregon.

B. “Director” means the Director of the Bureau of Environmental Services or the Director’s designee.

C. “Holding tank” means a tanks with no drain field ~~which~~ that is required to be pumped out on a regular basis.

D. “Operator in charge” means the operator in charge, hereafter referred to as “operator,” is the designated operator on duty at the Columbia Boulevard Wastewater Treatment Plant or other designated location who supervises and directs any discharge of septage.

E. “Septage” means domestic wastes in a tank or container such as chemical toilets.

F. “Tri-County Area” means the area within Multnomah, Clackamas and Washington Counties.

17.35.020 Permits Required.

~~(Amended by Ordinances 166674, 182760 and 185397, effective July 6, 2012.)~~

Only those persons possessing a valid septage discharge permit issued from the City of Portland will be allowed to discharge septage at the Columbia Boulevard Wastewater Treatment Plant (CBWTP).

A. Permits ~~shall will~~ authorize discharges for one year, unless a shorter time frame is authorized by the ~~Director~~City Administrator.

B. The City ~~shall may~~ issue permits for the discharge of septage at CBWTP after receipt of the following:

1. A Septage Discharge Permit Application form;
2. A copy of a valid sewage disposal service license issued by the DEQ;
3. A current DEQ Sewage Pumping Equipment Description/Inspection form for each vehicle identified on the permit;
4. A performance guaranty as described in 17.35.060 of this Chapter;
5. A copy of insurance coverage at or above those levels required by the Oregon Public Utility Commission;
6. Effective July 1, 1994, a certificate of completion, or the ability to receive such certification within 30 days of permit approval, by applicant personnel at the City of Portland's "Septage Hauler Training Class." Personnel of an approved septage hauler ~~shall must~~ attend the City's Septage Hauler Training Class. The class will inform haulers about the City's Septage Receiving Program and the operational process at CBWTP. Certification renewals may be requested on an annual basis and ~~shall may~~ be required upon request of the ~~City Administrator~~Director or when permittee personnel changes occur.
7. The City ~~shall will~~ impose appropriate conditions in permits to ensure compliance with requirements of this Chapter.

C. No provision of this Section ~~shall may~~ be construed to create any right to the disposition of septage at a City facility inconsistent with the public interest of the City.

17.35.030 Septage Discharge Limitations.

~~(Amended by Ordinances 166674 and 185397, effective July 6, 2012.)~~

The City will accept discharge of septage at the CBWTP that originates within the Tri-County area and is subject to the provisions of this Chapter.

A. Discharge of process waste from commercial and industrial locations is prohibited.

B. Unauthorized discharge of septage into the sewer system within the jurisdiction of the City or the Tri-County area is prohibited.

C. The City will have full authority to refuse a load, limit the amount of discharge and/or establish necessary restrictions on discharge under the following conditions:

1. Unacceptable acidic or alkaline strength or corrosive properties;
2. Septage is from a non-approved source;
3. Failure to supply complete, accurate and verifiable septage information;
4. Operator observed inconsistencies between certified contents and actual contents;
5. Operational or capacity limitations at CBWTP. Loads will be rejected during wet weather events.

17.35.040 Reserved.

17.35.050 Reserved.

17.35.060 Performance Guaranty.

~~(Amended by Ordinance 166674, effective June 23, 1993.)~~

Each applicant, except governmental agencies, ~~shall~~ must post a performance guaranty in a form including but not limited to a surety bond, penal bond, performance bond, irrevocable letter of credit, pledge of assets, or other form ~~that which shall~~ must be approved by the City Attorney. The amount will be determined by the conditions of the permit and the number and capacity of the applicant's vehicles. Minimum coverage ~~shall~~ must be \$10,000. All changes in personnel and equipment ~~shall~~ must be reported to the City within 30 days. The value of the performance guaranty ~~shall~~ will be forfeited to the City under any of the following conditions:

- A.** The discharge of septage in violation of 17.35.030;
- B.** The discharge of septage at unauthorized locations in the Tri-County area (or the City of Portland);
- C.** Effective July 1, 1994, failure to make timely payment, pursuant to 17.35.090 B, of charges billed under this Chapter. (Forfeiture of guaranty up to amount of overdue charges only, after notice of intent to demand payment from guarantor.)

17.35.070 Fee Schedule.

~~(Amended by Ordinances 156500, 160886, 162109, 165136, 166674, 167692, 168857, 170190, 171224, 172288, 173414, 175620, 176524, 177530, 178449, 179274, 180189, 181006 and 181846, effective July 1, 2008.)~~

A. Discharge permit holders are subject to the following septage discharge fees:

1. Annual Discharge Permit Fee. Fees are to be paid on an annual basis at time of permit application.

2. Discharge Rates. Each delivery received at the plant is subject to discharge rates, which will be applied to full tank capacity of the delivery vehicle. The plant may accept partial loads on a pre-approved basis. Measurement disputes between septage haulers and City personnel will be resolved by a process established by the City Administrator~~Director~~.

3. After-Hours Fee. Deliveries received at the plant outside of normal business hours are subject to an after-hours fee.

B. Septage discharge fees and rates are adopted, annually, by general ordinance to establish sewer and drainage rates and charges.

17.35.080 Collection and Billing.

~~(Amended by Ordinances 166674 and 181483, effective January 18, 2008.)~~

The operator is directed to provide one copy of the load certificate to the permittee, retain two copies of each load certificate executed by permittee, and to convey one copy of each load certificate to the office of the City as may be required by the Office of Management and Finance.

The City ~~will~~shall mail a monthly statement of account to each permittee. Failure to pay the amount shown within 30 days of the date of billing ~~will~~shall result in imposition of interest fees, as named in Title 5, Section 5.48.040, on the amount past due.

17.35.085 Inspections.

~~(Added by Ordinance 186192, effective September 6, 2013.)~~

A. Right of Entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections or for any other lawful purpose. This authorization includes but is not limited to inspection, sampling, testing, photographic documentation, record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or agreement.

B. Entry Protocols.

1. The BES representative will present a City photo identification card at the time of entry.

2. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

~~17.35.090 Revocation/Amendment of Permit.~~

~~(Repealed by Ordinance 186192, effective September 6, 2013.)~~

~~17.35.100 Protection of the Public Interest.~~

~~(Repealed by Ordinance 185397, effective July 6, 2012.)~~

17.35.110 Enforcement.

~~(Replaced by Ordinance 186192, effective September 6, 2013.)~~

A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to obtain a septage hauler permit;
2. Failure to comply with training requirements;
3. Discharge of wastes violating Section 17.35.050;
4. Failure to pay discharge fees or provide a performance guarantee; or
5. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15)

B. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

C. Civil Penalties. Persons violating this Chapter or associated rules may be assessed civil penalties of up to \$10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

D. Cost Recovery. The ~~City Administrator~~Director may recover all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15.

E. City Summary Abatement. To the extent permitted by law, the ~~City Administrator~~^{Director} may recover from the person causing the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;
2. A situation that poses an imminent danger to human health, public safety, or the environment; or
3. Continued noncompliance with PCC or associated rules.

F. Nothing in this Chapter is intended to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

17.35.120 Revocation or Amendment of Permit.

~~(Added by Ordinance 186192, effective September 6, 2013.)~~

All septage discharge permits issued to an applicant by the City may be revoked for any of the following reasons:

- A. Failure to accurately certify the source of a load of septage prior to discharge.
- B. Failure to pay all charges for discharge within 60 days of billing by the City.
- C. Any act that is named as a cause for forfeiture of the performance guaranty, as outlined in Section 17.35.060.
- D. Septage permits may be amended for the following reasons:
 1. A change occurs in a permittee's operations that affect the applicability of this Chapter's provisions.
 2. The amendment is required by the applicable State or Federal laws or regulations.

17.35.130 Administrative Reviews, Appeals, and Compliance Cases.

~~(Added by Ordinance 186192; Amended by Ordinances 186902 and 189750, effective November 29, 2019.)~~

A. Administrative Review and Appeal. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff, unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22, unless appeal is limited by administrative rule.

B. BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under PCC Title 22 to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence.

17.35.140 Conflict.

~~(Added by Ordinance 186192, effective September 6, 2013.)~~

This Chapter supersedes all ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.35.150 Severability.

~~(Added by Ordinance 186192, effective September 6, 2013.)~~

If any provision, paragraph, word, or Section of this Chapter or associated administrative rules is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections will~~shall~~ not be affected and will~~shall~~ continue in full force and effect.

CHAPTER 17.36 – PUBLIC SEWER AND DRAINAGE SYSTEM SERVICE CHARGES AND FEES

~~(Chapter replaced by Ordinance No. _____, effective _____.)~~

- 17.36.010 Intent.
- 17.36.020 Definitions.
- 17.36.030 Annual Rate Ordinance.
- 17.36.040 System Development Charges.
- 17.36.050 User Charges.
- 17.36.060 Additional Service Fees.
- 17.36.070 Service Outside the City.
- 17.36.080 Collection of Charges.
- 17.36.090 Adjustments, Corrections, and Refunds.
- 17.36.100 Financial Assistance.
- 17.36.110 Inspections.
- 17.36.120 Enforcement.

17.36.130 Administrative Review and Appeal.

17.36.010 Intent.

This Chapter governs the collection of public sewer and drainage system service charges and fees by the Bureau of Environmental Services (BES) as authorized by the [City Charter Council](#). It also includes collection processes applicable to other charges assessed by BES.

17.36.020 Definitions.

The following definitions apply to this Chapter:

- A. **“Billing Error”** means an instance in which a calculation or method used by the City for billing is not consistent, in the determination of the City, with adopted City Code or administrative rule provisions for billing sewer volume and stormwater management charges.
- B. **“Biochemical Oxygen Demand (BOD)”** means the quantity of oxygen utilized in the biochemical oxidation of organic matter per 40 CFR 136, “Guidelines Establishing Test Procedures for the Analysis of Pollutants.”
- C. **“Connection Charge”** is a general term used to describe any charge assessed by the city for providing public sewer and stormwater management services to a property. Connection charges include, but are not limited to, System Development Charges (SDCs).
- D. **“Director”** means the Director of BES or the Director’s designee.
- E. **“Equivalent Dwelling Unit (EDU)”** means the estimated monthly equivalent impact on the public sewer and drainage system of an average residential single-dwelling development.
- F. **“Equivalent Service Unit (ESU)”** means a measure of a property’s impact on the City’s stormwater management services. For residential uses, it is based on the estimated average occupancy of a dwelling. For commercial ratepayers, it is based on an estimated class average stormwater billable area.
- G. **“Extra-Strength Charge”** means the additional charge to wastewater dischargers who have constituent discharges at concentrations above levels normally expected in domestic wastewater, as determined by this Chapter, administrative rule, and annual rate ordinance.
- H. **“High-Strength Wastewater”** means wastewater that has a BOD concentration in excess of 300 mg/L or a TSS concentration in excess of 350 mg/L.

- I. **“Impervious Area”** means the measured or estimated area of impervious surfaces on a site.
- J. **“Impervious Surface”** means any surface exposed to rainwater off of which most water runs. Impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, vegetated or pervious areas over pavement or structures, parking lots or storage areas, concrete or asphalt paving, and compacted gravel or compacted soil.
- K. **“Net New Stormwater Billable Area”** means the difference between existing stormwater billable area on a property and any increase in stormwater billable area that results from a proposed use of the property.
- L. **“Rate”** means the multiplication factor used to generate a service charge based on cost-per-unit proxies including, but not limited to, gallons of discharge, drainage fixture units, or square feet. Rates can be multiplied by other factors.
- M. **“Ratepayer”** means a person who:
1. Has the right to possession of a property;
 2. Causes or permits the discharge of sanitary sewage into the public sewer and drainage system; or
 3. Benefits directly or indirectly from sewer or stormwater management services provided to the property by the City.
- N. **“Rolling Average”** means the average of the 10 most recent monthly averages of representative City- and/or self-monitoring events for the purpose of calculating an extra-strength sewage charge rate, unless another period is approved by the ~~Director~~[City Administrator](#).
- O. **“Sanitary Sewage”** means wastewater discharged to the public sewer and drainage system by permit or other approval of the ~~Director~~[City Administrator](#) and includes, but is not limited to, domestic wastewater, industrial and commercial process wastewater, and contaminated stormwater.
- P. **“Stormwater Billable Area”** means the sum of a property’s impervious area and area of pervious pavement, excluding areas covered by compacted soils and compacted gravels.
- Q. **“Stormwater Management Services”** means services and actions that collect, convey, detain, retain, treat, or dispose of stormwater. These services include managing stormwater runoff from public streets, mitigating flooding, preventing erosion, improving water quality of stormwater runoff, collecting and conveying stormwater runoff from private properties when

runoff exceeds the capacity of private facilities to manage stormwater onsite, mitigating impacts to natural habitats caused by stormwater runoff, and protecting properties and natural habitats from hazardous soils and materials that are discharged from private properties and public rights-of-way.

- R. **“System Development Charge”** means a charge imposed on development that creates new or increased demand of the public sewer and drainage system.
- S. **“Temporary Connection”** means a connection to the public sewer and drainage system where the duration of the connection is less than three years and connection and disconnection each occur only once. A connection made to the public sewer and drainage system made for the purpose of environmental remediation will not be considered a temporary connection unless approved by the [City Administrator](#)~~Director~~.
- T. **“Temporary Structure”** means a structure, including associated surface impervious areas, that is separate and distinct from all other structures and is created and removed in its entirety within three years.
- U. **“Total Suspended Solids (TSS)”** means the total suspended matter that either floats on the surface or is suspended in water or wastewater and that is removable by laboratory filtering in accordance with 40 CFR 136 Table B.
- V. **“User Charge”** means a charge for the use or benefit of public sanitary or stormwater management services.

17.36.030 Annual Rate Ordinance.

Charges authorized by this Chapter pay for the City to provide sewer and stormwater management services. Charges are calculated based on true costs of service or may be based on rates per unit volume, usage, or area served. Charges, fees, and rates are established through the BES rate ordinance, adopted annually by the City Council.

17.36.040 System Development Charges.

All development projects that create a new or increased demand on the public sewer and drainage system are subject to sanitary and stormwater SDCs. SDCs are intended to promote equity between new and existing customers by recovering a proportionate share of the cost of existing and future capital facilities that serve or will serve the developing property.

- A.** Sanitary System Development Charge. Sanitary SDCs for residential and nonresidential development are based on the net increase of sanitary flow to the public sewer and drainage system as measured by proposed drainage fixture units (DFU). For the purposes of calculating sanitary SDCs, DFU values are determined based on the Oregon Plumbing Specialty Code (OPSC). The methodologies used to calculate sanitary SDCs and SDC credits are described in Administrative Rule ENB-4.05. Sanitary SDC credits, if available, remain with the property to which they were purchased and are not transferable.
- B.** Stormwater System Development Charges. Stormwater SDCs for residential and nonresidential development are based on the net increase of impact on the storm system using measured square feet of stormwater billable area on a site. The methodologies used to calculate stormwater SDCs and SDC credits are described in Administrative Rule ENB-4.05. Stormwater SDC credits, if available, remain with the property to which they were purchased and are not transferable.
- C.** Payment. Payment of SDCs is required prior to issuance of a building permit, connection permit, or plumbing permit.
- 1.** Prepayment. A person may pre-pay connection charges by providing a letter of intent that includes the parcel description and address, if applicable, and an estimate of DFUs, stormwater billable area, and dwelling units. The [City Administrator](#) ~~Director~~ may grant a refund at any time for excess charges at the rate in effect at the time of building permit or connection. Prepayment does not guarantee reserved system capacity or usage of public sewer and drainage system.
 - 2.** Bonding. The [City Administrator](#) ~~Director~~ may accept a cash or surety bond posted by the owner of the occupancy in lieu of immediate payment of the charge if:
 - a.** The amount of DFUs, stormwater billable area, or dwelling units for the occupancy cannot be determined before the permit is issued; or
 - b.** The [City Administrator](#) ~~Director~~ has determined the amount of DFUs, stormwater billable area, or dwelling units for the occupancy but the applicant does not agree with the [City Administrator](#) ~~Director~~'s determination.
 - 3.** Deferral. Users who qualify to defer SDCs but who want to connect to the system can defer payment until such date as the [City Administrator](#) ~~Director~~ may specify as authorized by ordinance. The charge in effect at the time of connection is applied at time of payment. Deferred connection charges are delinquent when not paid

after a period of 90 days from the date due and bear interest and penalties. Users may convert the deferral to an installment payment loan.

- D.** Temporary Use. Temporary structures and connections are not subject to SDCs. SDCs, including penalties and interest charges, become due and payable for structures or connections that are not removed within three years. Temporary structures and temporary connections are not exempt from paying user charges, including extra-strength charges.
- E.** Exemptions. Certain structures and uses are exempt from some or all SDCs as described in PCC Chapter 17.14 and Administrative Rule ENB-4.05.

17.36.050 User Charges.

A. Sanitary Sewer Services

- 1.** Sanitary Sewer User Charge. All ratepayers who discharge to the City's sanitary sewer system must pay the sanitary sewer user charge. Charges for sanitary sewer services may include, but are not limited to, sanitary sewer volume charges and account service charges. These charges are calculated on a routine basis, such as monthly, bi-monthly, or quarterly frequencies. The methodologies used to calculate sanitary sewer user charges are described in Administrative Rule ENB-4.09. Rates are published in the annual rate ordinance, Binding City Policy ENB-4.20.
 - a.** Residential. Residential ratepayers are billed based on the actual metered water volume recorded during the winter billing period as described in Administrative Rule ENB-4.09. The winter billing period is designed to estimate water volume used indoors and discharged to the sanitary sewer system.
 - (1)** During the non-winter billing period, residential ratepayers are billed based on a winter average, minimum use average, or class average as described in Administrative Rule ENB-4.09.
 - (2)** Class Average. Class average volumes are assigned for:
 - (a)** Any ratepayer account for which the City does not receive meter reads to verify water use, including those with private or alternative water sources;
 - (b)** New ratepayer accounts started outside the winter billing period; and

- (c) Existing ratepayer accounts that have insufficient data to determine the winter average or billable sewer volume.
- b. Nonresidential. Nonresidential ratepayers, including commercial, industrial, and institutional users, are billed sanitary sewer user charges based on metered or estimated sewer discharge volume multiplied by the non-residential sewer services rate. Methods for measuring or estimating sewer volume include charge meters, process inflow meters or water meters, historical water use, measured discharge, or other methods approved by the City. Any measured or estimated volume determinations that include water not entering the sewer system may be eligible for a reduction in sewer user volume charges pursuant to Administrative Rule ENB-4.32.
- (1) Mixed Use. Where residential and nonresidential uses share the same water supply, the City calculates charges for sanitary sewer service in the same manner as those for nonresidential uses unless water usage is metered or billed separately for residential and nonresidential uses.
- (2) Mobile Discharges. User charges are applicable to all wastewater discharges to the City sewer system regardless of the source. In circumstances where the wastewater discharge is not from a fixed location, including, but not limited to, ships, barges, houseboats, and other movable facilities or dwelling units, the Director will estimate the volume of water to which user charges apply unless the ratepayer has provided another method of determining the volume that has been approved by the [City Administrator](#)~~Director~~.
- (3) Contaminated Stormwater. In areas served by separated storm and sanitary sewer systems, the City may accept the discharge of contaminated stormwater into the sanitary sewer. The discharge volumes will be determined by the amount of impervious area producing the contaminated stormwater plus the average rainfall or data obtained from a discharge meter. Discharges of contaminated stormwater are charged at the nonresidential sewer user rate.
- (4) Clean Water Discharges. Non-contact cooling water or water condensed from steam that has been put to no

other use may be discharged into the sanitary system as clean water. Charges are the same as for other sewer uses and are calculated based on the nonresidential sewer user rate multiplied by the measured or estimated volume of water discharged to the sanitary sewer system. Ratepayers authorized to discharge clean water to the sanitary sewer system are subject to Administrative Rule ENB-4.32. Rates are published in the annual rate ordinance, Binding City Policy ENB-4.20.

c. Private and Alternative Water Source Use. User charges may be adjusted in cases where water is supplied solely from a private source including, but not limited to, wells, springs, rivers or creeks, non-City sources, or from a partial supply in addition to water furnished by the City:

- (1)** Residential. Residential ratepayers are charged based on a class average volume for their alternative source water use.
- (2)** Nonresidential. Ratepayers must meter the private or alternative water supply as an inflow, or a discharge as described Administrative Rule ENB-4.32, and are charged accordingly.

2. Extra-Strength Charge. Extra-strength sewer charges must be paid by any ratepayer who discharges high-strength wastewater to the City's separate sanitary or combined sewer system. Ratepayers are charged an extra-strength sewer charge in addition to the nonresidential sanitary sewer user volume charges as described in Administrative Rule ENB-4.25.

a. Basis of Charge. Extra-strength charges are based on the following:

- (1)** The concentration of pollutants as identified Administrative Rule ENB-4.25.
- (2)** The total metered water volume supplied to the premises. The extra-strength charge may be reduced where commercial or industrial wastewater is discharged separately from domestic sanitary wastes or non-contact cooling waters and the user provides a meter or other measurement method as identified in administrative rule. For multiple tenant buildings with shared water service, extra-strength charges will be

apportioned by class of individual tenant with an estimated volume as a portion of the total sewer bill.

(3) The billing methodologies identified in Administrative Rule ENB-4.25, which include:

(a) Measured ESC Method. This method is based on rolling average sampling and analysis of the ratepayer's wastewater discharge volume and pollutant loading. Billing is based on a rolling average of sample results as described in Administrative Rule ENB-4.25.

(b) Class Average ESC Method. This method is based on a ratepayer's business type and its assumed average discharge concentration per the Class Average Table included in Administrative Rule ENB-4.25.

b. The [City Administrator](#)~~Director~~ may approve a custom billing methodology for a ratepayer when the characteristics of their wastewater discharge make it impractical to apply the calculation methodologies as prescribed in administrative rule. Custom billing methodologies will be consistent with the intent and purpose of this Chapter and Administrative Rule ENB-4.25.

B. Stormwater Management Services

1. Stormwater Management User Charge. All ratepayers who receive a direct or indirect benefit from City stormwater management services are subject to the stormwater management user charge. This charge is based on the user's proportionate share of City stormwater management services.

a. The ratepayer identified on the City utility billing account is assumed to be the user of stormwater management services and responsible for the user charge. If the property is not subject to other City utility charges, the [City Administrator](#)~~Director~~ will determine the ratepayer responsible for the user charge.

2. Basis of Charge. Stormwater user charges are calculated based on the site's measured or estimated stormwater billable area and equivalent service units. The following areas are excluded from a property's stormwater billable area: Right-of-way dedicated to the public and over which the City exercises regulatory jurisdiction and management; and outdoor recreation areas, except for associated

parking lots and buildings, that are owned by governmental bodies and available to the general public at all times without fees for use.

- a. Class Average. A property's stormwater billable area is assumed to be equal to the class average stormwater billable area for the property's class unless the property has been measured to the satisfaction of the [City Administrator/Director](#).

3. User Service Charges. Stormwater user charges are calculated based on the user's proportionate share of City stormwater management services. The methodologies used to calculate stormwater user charges are described in Administrative Rule ENB-4.09. Rates are published in the annual rate ordinance, Binding City Policy ENB-4.20.

- a. Residential. Residential users are charged based on tiered class averages, class averages, or measured stormwater billable area, depending on the number of dwelling units on a tax lot.
- b. Nonresidential. Nonresidential users are charged based on measured stormwater billable area.
- c. Drainage Districts. Users within a drainage district boundary are charged a unique rate for each user type. The basis of charge is the same as for users in the rest of the city.
- d. Multiple Accounts on a Single Tax Lot. Where multiple nonresidential ratepayer accounts are associated with a single tax lot, BES will allocate all stormwater management user charges to a single account.

4. Clean River Rewards. Ratepayers that control and manage the quality and quantity of stormwater runoff from their properties may receive discounts towards the eligible component of the total stormwater management charge. Discount amounts are based on meeting the applicable standards of the Stormwater Management Manual (SWMM). Clean River Rewards program requirements are described in Administrative Rule ENB-4.16.

5. Authorized Non-stormwater Discharges to the Municipal Separate Storm Sewer System (MS4). Users authorized to discharge allowable non-stormwater discharges to the City's MS4 are charged a unique rate based on the measured or estimated volume of water discharged. Ratepayers authorized to discharge non-stormwater discharges to the storm system are subject to Administrative Rule ENB-4.13. Rates are published in the annual rate ordinance, Binding City Policy ENB-4.20.

C. Portland Harbor Superfund Charge.

1. The City calculates and collects user charges for the Portland Harbor Superfund Program. If the property is not subject to other City utility charges, the ~~City Administrator~~Director determines the ratepayer responsible for the Portland Harbor Superfund charge. This user charge appears as a line item on the City utility bill and is the sum of the following two rate calculations:
 - a. Sanitary Volume. This portion of the charge is the billed sanitary sewer user volume multiplied by the Portland Harbor Superfund Sanitary Volume rate.
 - b. Stormwater Billable Area. This portion of the charge is the stormwater billable area multiplied by the Portland Harbor Superfund Impervious Area rate.

D. Batch Discharges and Construction Dewatering. Users authorized for batch discharges and construction dewatering are charged based on the estimated or metered volume water discharged to the public sewer and drainage system. Rates are determined by the type of sewer system receiving the discharge as published in the annual rate ordinance, Binding City Policy ENB-4.20. Additional review fees and charges, including extra-strength charges, may be applied as described in this Chapter and administrative rule.

E. Submeter Program Fees, Charges, and Credits. A ratepayer may request or be directed to participate in the Submeter Program to assess sewer and stormwater management service user charges accurately. A program participant is required to pay both the Portland Water Bureau and the BES administrative or special meter charges for each meter in use, which are assessed on each billing cycle. Submeter program requirements, fees, charges, and credits are described in Administrative Rule ENB-4.32.

17.36.060 Additional Service Fees.

The following fees are only applicable to certain user groups and are assessed in addition to other user charges. Users may be subject to one or more of these charges. The applicable charge rates are provided in the BES annual rate ordinance.

- A.** Development Review Fees. ~~BES~~The Council may establish fees for the review of development, including building plans and land use proposals, to ensure compliance with the requirements of this Title. The ~~Director~~City Administrator may ~~enter into agreements with~~direct the ~~Bureau of Development Services~~Portland Permitting & Development to manage the collection of these fees on behalf of BES. The ~~Director~~City Administrator ~~shall have~~have the discretion and authority to waive all or a portion of

development review fees and may adopt rules and procedures to refund, reduce, or waive development review fees in administrative rule or BES's annual rate ordinance.

- B.** Industrial Wastewater Permit Fees. Permitted industrial users must pay industrial wastewater permit fees based on the level of permit complexity, regulatory history, and amount of BES administrative oversight. Fee components are based on whether an industrial discharger is a categorical industrial user, significant industrial user, or neither. Additional charges, including extra-strength charges, may be applied as described in this Chapter and administrative rule. Discharge rates are published in the BES annual rate ordinance, Binding City Policy ENB-4.20.
- C.** Batch Discharge Authorization Review Fees. Users requesting authorization for controlled discharge of a discrete, contained volume of wastewater from their site must pay the batch discharge review fee. This fee reimburses the City for services including, but not limited to, site research, system capacity analysis, pretreatment and source control evaluation, permit administration, and monitoring. Batch discharge volumes are charged at the nonresidential sanitary sewer rate and may be subject to additional extra-strength charges. Discharge rates are published in the BES annual rate ordinance, Binding City Policy ENB-4.20.
- D.** Construction Dewatering Permit Review Fees. Users requesting authorization for temporary construction dewatering to the public sewer must pay a dewatering permit review fee. This fee reimburses the City for services including, but not limited to, site research, system capacity analysis, pretreatment and source control evaluation, permit administration, and monitoring. Discharge rates are determined by the receiving sewer system as published in the annual rate ordinance, Binding City Policy ENB-4.20. Discharges to the sanitary sewer system may be subject to additional extra-strength sewer charges.
- E.** Discharge Authorization (DA) Review Fees. Users that request or that are required to obtain a DA pursuant to PCC Chapters 17.34 or 17.39 must pay a discharge authorization review fee. This fee reimburses the City for services including, but not limited to, site research, system capacity analysis, pretreatment and source control evaluation, permit administration, and monitoring. Discharge rates are determined by the receiving sewer system as provided in the BES annual rate ordinance, Binding City Policy ENB-4.20. Discharges to the sanitary sewer system may be subject to additional extra-strength sewer charges.
- F.** Additional Sampling Fees. Additional City sampling and analysis beyond the cost already incorporated in other compliance or monitoring fees is based on cost-of-service principles and recovers the cost of materials and services provided by BES.

- G. Administrative Fees and Penalties. The City may charge administrative fees and penalties to users for, but not limited to, the collection of delinquent utility bills, processing special tax assessments, denial of entry, or falsification of records. Fees are published in the annual rate ordinance, Binding City Policy ENB-4.20, or are based on the City's cost recovery principles.
- H. Charges for Other Services. For the provision of services for which a charge is not otherwise established by Code, administrative rule, or policy, charges ~~shall~~will be calculated as provided in the City's comprehensive financial management policies. Charges are calculated based upon cost-of-service principles and recover the cost of materials and services provided by BES.

17.36.070 Service Outside the City.

- A. The City charges for the use of sanitary sewer and stormwater management services from properties outside the city in compliance with the City's urban services policy and based on annually-established rates.
- B. The ~~City Administrator~~Director determines whether a property is inside or outside of the city limits. For purposes of this Section, the property is outside of the city limits where 66.7 percent or more of the assessed valuation of the property is recorded in the records of the County Assessor as lying beyond the city limits.
- C. The ~~City Administrator~~Director may require, and ~~the City Administrator may~~ enter into, agreements for and on behalf of the City permitting connection and providing sanitary sewer or stormwater management services to properties outside the city when the ~~Director~~City Administrator finds such service feasible and appropriate.

17.36.080 Collection of Charges.

- A. All charges for services provided to a property are the responsibility of, in the City's sole determination, the ratepayer or, if different, the property owner. This responsibility may attach to the ratepayer's or property owner's subsequent City utility accounts and applies whether the ratepayer or property owner is the sole user of the services or furnishes them in turn to third parties.
 - 1. For an account for which the City does not have the ability to curtail water service, the City may certify to the appropriate County Tax Assessor the amount of any delinquent user charges, fees, and penalties associated with services provided. Those charges, fees, and penalties will then be assessed and collected in the same manner as property taxes.

- a. The City may include in the assessed amount additional penalties. Penalties will be described in BES's annual rate ordinance.
 - b. Both tenant-occupied and owner-occupied properties are subject to assessment. The owner of a tenant-occupied property may be subject to collection efforts and special tax assessment for all unpaid City utility charges, fees, and penalties.
- B. **Billing Due Dates.** User charges are computed monthly, bimonthly, or quarterly, coincident with user charges for water service.
 - 1. When billed with the utility bill, user charges are due and payable on the date provided on the utility bill. The City may prorate user charges for a portion of a utility billing period based on the effective date of the sanitary sewer or stormwater management service.
 - 2. For ratepayers who do not receive water service from the City, user charges will be computed and billed monthly, bimonthly, or quarterly.
- C. **Collections.** Upon determination by the [City Administrator](#)~~Director~~ that a charge is past due or otherwise delinquent, the City may avail itself of the full range of actions authorized by [Portland City](#)~~this~~ Code.
- D. **Discontinuation of Services.** Charges not paid in accordance with the due date in the bill or invoice may be subject to water shutoff pursuant to Title 21 of [Portland City](#)~~this~~ Code. The [City Administrator](#)~~Director, with approval of the Commissioner in Charge,~~ may also discontinue sanitary sewer service by plugging the sewer service line to properties whose delinquent user charges exceed \$10,000 for a period of 90 days or more. Ratepayers and property owners must be notified in writing of the City's intent to plug the sewer not less than 30 days prior to disconnection. Payment of, or a City-approved payment plan for, the delinquent amount, including outstanding user charges, accrued interest and collection costs, and all costs associated with plugging and reconnecting the sewer line, must be received by the City before the property may be reconnected to the public sewer.

17.36.090 Adjustments, Corrections, and Refunds.

- A. The [City Administrator](#)~~Director~~ may authorize an adjustment of up to \$5,000 to a ratepayer's utility account separate from or in addition to the amount of a billing error correction when it is deemed necessary for the proper conduct of the business of BES to do so.
- B. When BES determines that a billing error has occurred, the [City Administrator](#)~~Director~~ may authorize an adjustment of the ratepayer's utility

account for the period of the error, not to exceed three years from the date the error is identified and documented by BES. Corrections can only be made when consumption or billable area data and billing amounts can be validated by ratepayer or City records, to the satisfaction of the [City Administrator](#)~~Director~~.

- C. Except as set forth in this Subsection, a ratepayer's eligibility for an adjustment will end six months after the date a final bill was issued for the subject account. The [City Administrator](#)~~Director~~ may authorize an adjustment to the outstanding balance of a closed utility account more than six months after the issuance of the account's final bill if the error resulted from fraudulent activity or inaccurate information provided to the City.
- D. Adjustments will be in the form of credits or additional charges to active utility accounts. Refunds for billing adjustments are reserved for ratepayers who do not have active utility accounts and must be approved by the [City Administrator](#)~~Director~~.
- E. Ratepayers who receive a back-billing or a delayed billing resulting from a City billing error will be offered the opportunity to pay the balance due over a set period based on then-current City collection policies.

17.36.100 Financial Assistance

BES may provide financial assistance to eligible property owners to assist with sewer connections and to prevent disruption of service. Financial assistance in the form of loans and payment deferrals is available as described in Administrative Rule ENB-4.28.

17.36.110 Inspections.

- A. Right of Entry. To the full extent permitted by the law, the City may enter all private and public premises at any time for the purpose of inspecting sources of potential or actual discharges to the public sewer and drainage system and to perform any other lawful act required by or authorized under [Portland City](#)~~this~~ Code or ordinances of the City, the Charter, or state or federal law. This authorization includes but is not limited to inspection, sampling, testing, photographic documentation, record examination, copying, and installation of devices as necessary to conduct sampling, inspection, testing, monitoring, and metering operations to determine compliance with the requirements of this Chapter. City representatives may not be required to, and will not, sign any type of confirmation, release, consent, acknowledgement, or other type of agreement as a condition of entry.
- B. Conditions for Entry.

1. The City representative will present appropriate credentials at the time of entry.
2. The City representative will comply with routine safety and sanitary requirements of the facility or site to be inspected as provided by the facility operator at the time of entry. The facility operator must provide the City representative with any facility-specific safety protective equipment necessary for entry.

17.36.120 Enforcement.

A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Meter Tampering. It is unlawful to install, change, bypass, adjust, or alter any metering device or piping arrangement connected therewith in order to falsify the quantity of water discharging to the public sewer and drainage system.
2. Sampling Tampering. It is unlawful to tamper in any manner with City-owned or City-installed sampling equipment or samples therefrom.
3. Falsifying Applications of Record. Ratepayers shown to have falsified applications and records may be subject to enforcement.
4. Denial of Entry. Ratepayers that do not allow the City right-of-entry as described in this Chapter may be subject to enforcement.

B. Enforcement. Enforcement actions may include, but are not limited to:

1. Withholding of City services;
2. Withholding of City permits;
4. Reversal or suspension of reduced charges or credits, as appropriate, and disqualification from applicable program participation;
5. Account billing for the full amount of water passing through the supply meter or an amount deemed appropriate by the [City Administrator](#)~~Director~~; and
6. Assessed civil penalties per Administrative Rule ENB-4.15.

C. Civil Remedies.

1. In addition to the remedies provided by any other provision of this Chapter, the City may obtain, in any court of competent jurisdiction, a judgment against a person or property failing to comply with the provisions of this Chapter. In any such action, the measure of damages ~~shall~~will be the costs for abatement by the City, administrative costs, permit charges, overhead costs, penalties, and other charges as determined by the ~~City Administrator~~Director.
2. In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may commence and maintain an action or proceeding in any court of competent jurisdiction to compel compliance with, or prevent by injunction, the violation of any provision of this Chapter.

17.36.130 Administrative Review and Appeal.

A ratepayer, property owner, or owner's agent may request modification of a ~~BES~~City Administrator decision related to this Chapter as described in this Chapter via administrative review with BES staff to the extent allowed by administrative rule. After the requestor has exhausted all BES administrative reviews, the requestor may appeal a ~~BES~~City Administrator decision to the Code Hearings Officer per PCC Title 22 to the extent allowed by administrative rule.

Chapter 17.37 Downspout Disconnection

~~(Chapter replaced by Ordinance 182467, effective February 6, 2009.)~~

17.37.010 Purpose.

~~(Amended by Ordinance 185397, effective July 6, 2012.)~~

The purpose of downspout disconnection is to remove stormwater from the combined sewer system to reduce the cost of large conveyance, storage, and treatment facilities needed to capture and treat stormwater or combined sewage.

~~17.37.015 Rule Making.~~

~~(Repealed by Ordinance 185397, effective July 6, 2012.)~~

17.37.020 Definitions.

~~(Replaced by Ordinance 185397; Amended by Ordinance 186403, effective February 1, 2014.)~~

For the purpose of this Chapter, the following definitions ~~shall~~ apply:

A. “Combined Sewer” means a sewer designed to convey both sanitary sewage and stormwater.

B. “Director” means the Director of the Bureau of Environmental Services or the Director’s designee.

C. “Disconnection” means physically plugging or capping the direct stormwater connection to a sewer and redirecting the stormwater either onto the surface of the property or under ground. This may require alterations to gutters, downspouts and landscaping.

1. For properties that have a branch constructed to the edge of the property line from a public separated storm system, disconnection from the combined sewer may be accomplished by direct stormwater connection through a lateral to the public storm system. New storm connections to the City sewer or storm system are subject to the Stormwater Management Manual requirements for new connections to public systems.

2. For properties where surface or underground disposal of roof water is not feasible, disconnection may include a curb cut ~~which~~ that discharges roof water to a curbed street. New storm connections to the city sewer or storm system are subject to the Stormwater Management Manual requirements for new connections to public systems.

3. New stormwater facilities are required to meet the requirements of the Stormwater Management Manual.

D. “Downspout” means the conductor that conveys storm water from the gutter on the exterior of a building or other structure to another place of disposal.

E. “Program area” means the boundaries of the Downspout Disconnection Program area as shown on the map in administrative rules.

F. “Workers Authorized By the Director” means, but is not limited to, City employees and contractors hired by the City.

17.37.030 Establishment of Downspout Disconnection Program.

~~(Replaced by Ordinance 185397, effective July 6, 2012.)~~

A. Eligibility. Properties located within the boundaries of the disconnection area as shown on the map within the program administrative rules. A property is eligible for participation if the property:

1. Meets the "residential use" criteria in PCC Chapter 33.920; or

2. Meets the "commercial use" criteria in PCC Chapter 33.920, and has site conditions that would allow for safe and effective disconnection as identified in Section 17.32.040.

B. Deadlines. The Downspout Disconnection Program ~~shall~~will pursue the objective of managing stormwater directly connected to the combined sewer on eligible properties in the program area and removing necessary amounts of stormwater from the combined sewer no later than the deadlines in the Downspout Disconnection Program Administrative Rules. Deadlines may be met sooner based upon the schedule for the projects in specific sewer basins.

C. Procedures. Disconnection procedures and policies are described in the Downspout Disconnection Program Administrative Rules. All downspouts that are disconnected from the combined sewer through this program must conform to the disconnection methods or systems approved by the ~~Director~~City Administrator. Technical assistance will be provided to property owners, upon request, to determine the most appropriate method of stormwater management.

D. Access to Eligible Property. For the purpose of administering this ~~code~~Chapter, the ~~City Administrator~~Director or other workers authorized by the Director may, with consent from the property owner or occupant and upon production of proper identification, enter upon the land or premises of eligible property. The purpose of such entry is to survey a downspout to determine whether it is connected, to provide technical assistance regarding proper disconnection, to disconnect downspouts, to correct or otherwise fix disconnected downspouts, to reconnect downspouts that do not meet program standards, or to inspect downspouts ~~which~~that have been disconnected.

E. Ownership of private stormwater systems. The property owner ~~shall~~must own the new private stormwater management system and be responsible for ensuring that the new private system is properly maintained and operated.

F. Reconnection of disconnected downspouts at participating properties.

1. Property owners in mandatory program areas are prohibited from reconnecting to the combined sewer unless the City determines that the disconnection poses a threat to health, safety or property and approves the reconnection. Homeowners must contact the Downspout Disconnection Program if they believe reconnection is necessary.

2. Property owners in the voluntary area must contact the Downspout Disconnection Program if they plan to reconnect their downspout(s).

~~17.37.040 Disconnection Procedures.~~

~~(Repealed by Ordinance 185397, effective July 6, 2012.)~~

~~17.37.050 Disconnection Reimbursement.~~

~~(Repealed by Ordinance 185397, effective July 6, 2012.)~~

17.37.080 Program Enforcement.

~~(Amended by Ordinance 189750, effective November 29, 2019.)~~

Any property whose downspouts have not been granted an exception and remain connected to the combined sewer system in violation of Subsection 17.37.030 B.3. is ~~hereby~~ declared a nuisance and subject to abatement or correction. Whenever the ~~City Administrator~~~~Director~~ believes such a nuisance exists, a notice ~~will~~~~shall~~ be posted on the property directing that the nuisance be abated or corrected. The City retains the right to take any or all of the following enforcement actions if the property owner or their agent fails to abate this nuisance:

A. Summary abatement. If the property owner or their agent continues to ignore or refuses to abate the declared nuisance, the City reserves the right to obtain an order from the City Code hearings officer to summarily abate the nuisance on subject property. The City ~~shall~~~~may~~ attempt to bill the property owner for the costs of disconnection from the combined sewer.

B. Civil Remedy. The City ~~shall have the right to~~~~may~~ obtain, in any court of competent jurisdiction, a judgment against the person or property failing to disconnect from the combined sewer in accordance with the provisions of Section 17.37.030. In any such action, the measure of damages ~~will~~~~shall~~ be the costs for abatement by the City, administrative costs, permit fees, overhead costs, penalties, and other charges as determined by the ~~City Administrator~~~~Director~~.

C. Court Action. 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 Chapter.

D. Withholding of BES Services. Except as provided elsewhere in this Title or when the public welfare is endangered; the Bureau of Environmental Services may at its discretion withhold from the owner(s) (or the owner's agent) of disconnection delinquent property as defined in Section 17.37.030, any service that is provided by the Bureau. This may include, but is not limited to:

1. Refusal of acceptance of application for permits relating to development on any property of the said owner(s).

This withholding may continue until the disconnection delinquency no longer exists

E. Administrative Review and Appeal. Property owners or their agents may request an administrative review of a BES decision related to this Chapter, unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal with

the Code Hearings Officer per PCC Title 22, unless appeal is limited by administrative rule.

1. In the event that the City needs to enforce the terms of the Code Hearings Officer's order referred to in Section 17.37.080, an administration fee of \$300 for each occurrence and associated costs for each occurrence for enforcing the terms of the order willshall be billed to the property owner of the property in accordance with the provisions of Chapter 22.06. If the administrative fee remains unpaid after 90 days, the administrative fee willshall be made a lien on the property in accordance with the provisions of Chapter 22.06.

17.37.110 Interference with Disconnection Activities Unlawful.

It shall beis unlawful for any person to attempt to obstruct, impede, or interfere with any officer, employee, contractor, agent, or authorized representative of the City whenever such officer, employee, contractor, agent, or authorized representative of the City is engaged in the work of disconnecting downspouts from the combined sewer under the authority of an order of the Code Hearings Officer issued pursuant to Subsection 17.37.080 C. above.

17.37.120 Liability.

Neither the City nor any of its officers, employees, contractors, agents, or authorized representatives shall may be liable for any damage to or loss of the real property of any improvements, emblements, or personal property thereon due to the enforcement or administration of this Chapter.

17.37.130 Civil Remedies.

A. In addition to the remedies provided by any other provision of this Chapter, the City shall have the right to may obtain, in any court of competent jurisdiction, a judgment against the person or property failing to disconnect from the combined sewer in accordance with the provisions of Section 17.37.030. In any such action, the measure of damages willshall be the costs for abatement by the City, administrative costs, permit fees, overhead costs, penalties, and other charges as determined by the City AdministratorDirector.

B. 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 Chapter.

17.37.140 Notice Sufficiency.

For the purposes of any noticing procedure as set forth by this Chapter, notice willshall be deemed to have been received upon mailing of that notice. An error in the name of the owner or agent of the owner or the use of a name other than that of the true owner or agent for the property willshall not render the notice void.

17.37.150 Bureau Actions.

All City Bureaus willshall, to the fullest extent consistent with their authority, carry out their programs in such a manner as to further the provisions of this Title, and willshall cooperate to the fullest extent in enforcing the provisions of this Chapter.

17.37.160 Severability.

If any provisions of this Chapter, or its application to any person or circumstances, is held to be invalid, the remainder of this Chapter, or the application of the provision to other persons or circumstances, willshall not be affected.

Chapter 17.38 Drainage and Water Quality

~~(Chapter replaced by Ordinance 190166, effective November 13, 2020.)~~

17.38.010 Authority.

The ~~Director of Environmental Services~~City Administrator is responsible for administering the requirements of this Chapter. The City Administrator ~~Director~~ has the authority and responsibility to adopt rules, procedures, and forms to implement the provisions of this Chapter.

17.38.015 Intent.

The intent of this Chapter is to provide for the effective management of stormwater, groundwater, and drainage, and to protect and improve water quality in ~~the city of~~ Portland.

17.38.020 Definitions.

For the purposes of this Chapter, the following definitions apply:

- A. "Capacity"** means the flow volume or rate for which a specific facility is designed to safely contain, receive, convey, infiltrate, or reduce pollutants from sanitary sewage, stormwater, wastewater, or other discharge in order to meet a specific performance standard.
- B. "Conveyance"** means the transport of sanitary sewage, stormwater, wastewater or other discharge from one point to another point.
- C. "Director"** means the Director of the Bureau of Environmental Services, or the Director's designee.
- D. "Discharge"** means any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching, leaking or placing of any material so that such material enters or is likely to enter a water body, groundwater, or a public sewer and drainage system.

E. **“Discharge Point”** means the connection point of a site to a receiving system.

F. **“Discharge Rate”** means the rate of flow of a discharge expressed in a unit of volume per unit of time.

G. **“Drainage Reserve”** means the regulated area adjacent to and including a drainageway. A drainage reserve is required to protect the water quality and hydrology of the drainageway.

H. **“Drainageway”** means a constructed or natural channel or depression that may at any time collect and convey water. A drainageway and its drainage reserve function together to manage flow rate, volume, and water quality. A drainageway may be permanently or temporarily inundated.

I. **“Groundwater”** means subsurface water that occurs in soils and geological formations that are fully saturated. Groundwater fluctuates seasonally and includes perched groundwater.

J. **“Groundwater Discharge”** means a discharge of water pumped or directed from the ground. Groundwater discharges include but are not limited to subsurface water from site remediation and investigations, well development, Brownfield development, discharges from footing and foundation drains, and subsurface water associated with construction or property management dewatering activities.

K. **“Impervious Surface”** means any surface that has a runoff coefficient greater than 0.8 (as defined in the City’s Sewer and Drainage Facilities Design Manual). Types of impervious surfaces include rooftops, traditional asphalt and concrete parking lots, driveways, roads, sidewalks and pedestrian plazas. Slatted decks and gravel surfaces are considered pervious unless they cover impervious surfaces or unless gravels are compacted to a degree that causes their runoff coefficient to exceed 0.8.

L. **“Infiltration”** means the percolation of water into the ground. Infiltration is often expressed as a rate (unit of distance per unit of time) that is determined through an infiltration test.

M. **“Pollutants of Concern”** means constituents identified by the Oregon Department of Environmental Quality or Bureau of Environmental Services (BES) as having the potential to have a negative impact on the receiving system. Pollutants of concern can include suspended solids, metals, nutrients, bacteria and viruses, organics, volatiles, semi-volatiles, floatable debris and increased temperature.

N. **“Practicable”** means available and capable of being done as determined by the [City Administrator/Director](#), after taking into consideration of factors such as cost, resources, existing technology, and logistics in light of overall project purpose.

O. **“Public Right-of-Way”** means the area within the confines of a dedicated public street, an easement owned by the City, or other area dedicated for public use.

P. "Receiving System" means any system that may receive stormwater or other discharges. Receiving systems include, but are not limited to: surface water bodies, groundwater, and sewer or drainage systems.

Q. "Redevelopment" means any development activity that requires demolition or removal of existing structures or impervious surfaces at a site and replacement with new impervious surfaces. Stormwater management requirements for redevelopment are found in the Stormwater Management Manual.

R. "Source Control" means a structural or operational measure to prevent or control the release or potential release of pollutants generated by certain site characteristics and uses.

S. "Stormwater" means water that originates as precipitation on a particular site, basin, or watershed.

T. "Stormwater Management" means techniques used to reduce pollutants from, detain, retain, or provide a discharge point for stormwater.

U. "Stormwater Management Facility" means a facility or other technique used to reduce volume, flow rate or pollutants from stormwater. Stormwater management facilities may reuse, collect, convey, detain, retain, treat, or provide a discharge point for stormwater.

V. "Temporary Structure" means a structure that is separate and distinct from all other structures and is created and removed in its entirety within three years, including all impervious area associated with the structure.

W. "Tract" means a parcel of land designated as part of a land division per Title 33 that is not a lot, lot of record, or a public right-of-way.

X. "Waters of the State" as defined by state law.

Y. "Waters of the US" as jointly defined by the US Army Corps of Engineers and the Environmental Protection Agency.

Z. "Wetland" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs, and similar areas except those constructed as pollution reduction or flow control facilities wholly outside Waters of the US and Waters of the State.

17.38.030 Protection of Drainageway Areas.

A. Authority. The [City Administrator](#)~~Director~~ may require drainage reserves or tracts over seeps, springs, wetlands and drainageways as necessary to maintain or improve hydrologic conveyance and water quality of natural and constructed

channels, ditches, seeps, springs, intermittent flow channels and other open linear depressions. Standards and criteria for imposing drainage reserves or tract requirements are adopted by administrative rule. Placement or sizing of drainage reserves does not relieve property owners of their responsibility to manage stormwater in a manner that complies with the duties of property owners under applicable law.

B. Required Management of a Drainage Reserve. Drainage reserves and tracts must be maintained to protect hydrology and water quality. No encroachments, such as but not limited to structures, culverts, excavations, or fills, may be constructed in drainage reserves or tracts unless authorized by the [City Administrator](#)~~BES Chief Engineer~~. All changes must also comply with other regulations as described in Title 33 and Title 24.

C. Implementation. BES will identify drainageways and place drainage reserves as specified in the Stormwater Management Manual.

17.38.035 Drainage Management Policies and Standards.

[\(Amended by Ordinance 191736, effective July 1, 2024.\)](#)

A. Stormwater must be managed in as close proximity to the development or redevelopment site as is practicable, and stormwater management must avoid a net negative impact on nearby streams, wetlands, groundwater, and other water bodies. All local, state, and federal permit requirements related to implementation of stormwater management facilities must be met by the owner/operator prior to facility use. Surface water discharges from onsite facilities must be discharged to a receiving system approved by BES.

1. The City may enter into agreements with property owners to manage stormwater flows through methods other than onsite controls:

- a.** In joint facilities where public and private property flows co-mingle.
- b.** In offsite areas that are “traded” for required onsite management areas related to new development and redevelopment. The City may require more than a 1:1 exchange on the amount of required management area.

2. All discharges from a site must be routed through a discharge point to a receiving system as approved by the [City Administrator](#)~~Director~~. Approval of discharge points is subject to the following:

- a.** The discharge must be conveyed along a route of service approved by the [City Administrator](#)~~Director~~.
- b.** The discharge point must comply with the following:

(1) The Sewer and Drainage Facilities Design Manual and the Source Control Manual, for sanitary, wastewater, or other discharges to the sanitary or combined system.

(2) The Stormwater Management Manual and the Source Control Manual, for stormwater and other discharges to the City's storm and drainage system, groundwater, or surface water.

B. The quality of stormwater leaving the site after development or redevelopment must be equal to or better than the quality of stormwater leaving the site before development or redevelopment, to the extent practicable, based on the following criteria:

1. Except as allowed under Subsection B.2. below, the development or redevelopment will fully treat all stormwater:

- a.** Onsite;
- b.** Within the original parcel from which the new parcel was created; or
- c.** In an approved offsite facility with sufficient capacity, as determined by the Bureau.

2. The owner of a development or redevelopment with a stormwater discharge that cannot practicably comply with Subsection B.1. above may, with written BES approval, meet stormwater requirements by:

- a.** Managing stormwater in an offsite facility designed to treat flows from the subject property and managed by the site developer/owner or another legal agent:
- b.** Managing stormwater in an offsite facility designed to treat flows from the subject property and operated by the City; or
- c.** Paying a stormwater offsite management fee as required by the Stormwater Management Manual. The stormwater offsite management fee collected will be placed in a mitigation account to be used to mitigate the impacts that arise from offsite discharge of stormwater.

3. Stormwater management facilities required for development or redevelopment must be designed, installed and maintained in accordance with the Stormwater Management Manual.

4. Land use activities of particular concern as pollution sources may be required to implement additional pollution controls and source controls including but not limited to those management practices specified in the Stormwater Management Manual and the Source Control Manual.

5. Development or redevelopment in a watershed that drains to streams with established Total Maximum Daily Load limitations, as provided under the Federal Clean Water Act, Oregon Law, Administrative Rules and other legal authorities, must ensure that stormwater management facilities meet the requirements for pollutants of concern, as stated in the Stormwater Management Manual.

6. The [City Administrator](#)~~Director~~ is authorized to exempt land uses, discharge locations or other areas of the city from the requirements of this Subsection if onsite pollution reduction or pollution control is not needed or desirable due to limited pollutant loads or offsite methods of pollution control are available. All exemptions are specified in the Stormwater Management Manual and the Source Control Manual.

C. The quantity and flow rate of stormwater leaving the site after development or redevelopment must be equal to or less than the quantity and flow rate of stormwater leaving the site before development or redevelopment, as much as is practicable, based on the following criteria:

1. Except as allowed under Subsection C.2. below, stormwater will be fully managed:

- a.** Onsite;
- b.** Within the original parcel from which the new parcel was created; or
- c.** In a privately developed offsite facility with sufficient capacity, as determined by the Bureau.

2. The owner of a development or redevelopment with stormwater discharges that cannot practicably comply with Subsection C.1. above may, with written BES approval, meet stormwater requirements by either:

- a.** Managing stormwater in an offsite facility designed for the volume and rate of flows from the subject property and managed by the site developer/site owner or another legal agent;
- b.** Managing stormwater in an offsite facility designed for the volume and rate of flows from the subject property and operated by the City; or
- c.** Paying a stormwater offsite management fee as required by the Stormwater Management Manual. The fee collected will be placed in an account to be used to mitigate the impacts of offsite discharges of stormwater.

3. Development and redevelopment must mitigate all project impervious surfaces through retention and on-site infiltration to the maximum extent practicable. Where on-site retention is not possible, development and

redevelopment must detain stormwater through a combination of measures that prevent an increased rate of flow leaving a site during a range of storm frequencies as specified in the Stormwater Management Manual.

4. The [City Administrator](#)~~Director~~ is authorized to exempt areas of the city from the quantity control requirements if flow control is not needed or desirable because there is sufficient capacity and limited impacts to the receiving drainage system. All exemptions will be specified in the Stormwater Management Manual.

5. Any development or redevelopment that discharges to a tributary of the Willamette River, other than the Columbia Slough, must design stormwater management facilities to minimize hydromodification impacts from storm events as determined by the [City Administrator](#)~~Director~~.

6. Site drainage facilities must be designed to safely convey less frequent, higher flows through or around stormwater management facilities and to an approved discharge point with adequate capacity without damage to the receiving system, whether natural or constructed.

D. The pumping and discharge of groundwater to a City receiving system may be allowed only after a BES Discharge Authorization has been obtained, as required in the Source Control Manual. The application for that authorization must demonstrate that groundwater discharges must meet the associated requirements in the Source Control Manual and Chapters 17.34 and 17.39, which govern both quality and quantity of groundwater discharges.

E. All conveyance systems must be analyzed, designed and constructed for existing tributary offsite stormwater and developed onsite stormwater from the proposed project in compliance with the City's Sewer and Drainage Facilities Design Manual. The general goal of these standards is to convey both onsite and offsite waters in a way that meets the capacity needs of the City conveyance system, is protective of public health and safety, and minimizes environmental impacts in the downstream receiving system.

F. All stormwater management facilities, source controls, and drainage systems must comply with the standards of the Stormwater Management Manual and the Source Control Manual and may require permit review and approval before commencement of work. Public systems must be reviewed and approved by BES in compliance with the sizing and location standards in the Stormwater Management Manual. Private onsite systems must be reviewed and approved by BES for compliance with the stormwater hierarchy and other guidance specified in the Stormwater Management Manual and the Source Control Manual, and may be reviewed by Portland Permitting & Development for compliance with the plumbing code regulations in Section 25.01.020. Installation or modification of any stormwater system or source control, whether it involves structural changes, changes to planting schemes, or the management of drainage area in addition to what was previously

approved, may require a permit from or review by the [City Administrator](#)~~BES Chief Engineer~~.

17.38.040 Stormwater and Water Quality Management Required.

A. Applicability. Unless exempt by rule, sites that propose one or more of the following site improvements or site activities must comply with the standards of the Stormwater Management Manual and the Source Control Manual to the extent each applies under its respective terms:

1. A project that develops or redevelops 500 square feet or more of impervious area must manage stormwater for retention, pollution reduction, and flow and volume control requirements as spelled out in this Chapter;
2. Modification to or construction of new areas with pollution-generating activities of concern as identified by rule. These areas must be constructed with applicable onsite controls;
3. New connections or new drainage areas routed into a receiving system or from one receiving system to another. These connections most often are generated from decommissioning of private, onsite drainage or groundwater related systems;
4. A retrofit project that will install new stormwater management or source control facilities to manage and treat stormwater from existing impervious surfaces or sites uses;
5. A project to upgrade nonconforming landscaping in order to meet the requirements of Title 33. These upgrades must include designs for new or upgraded landscaped areas to manage parking lot stormwater according to the Stormwater Management Manual and Source Control Manual;
6. Property with a drainageway that requires a drainage reserve.

B. No plat, site plan, building permit, tenant improvement, public works project, or any improvement requiring a City permit will be approved unless the conditions of the plat, permit or plan approval requires installation of permanent stormwater management facilities and source controls designed according to standards or guidelines established by the [City Administrator](#)~~Director~~ and as specified in the Stormwater Management Manual and the Source Control Manual.

17.38.041 Operations and Maintenance Requirements.

A The owner of a development or redevelopment site that must comply with the standards of the Stormwater Management Manual or the Source Control Manual, to the extent each applies under its terms, must submit an operations and maintenance (O & M) plan and complete an O & M form for the required stormwater management and source control facilities for review and approval by the [City](#)

[Administrator](#)~~Director~~, unless otherwise exempted by the Stormwater Management Manual or Source Control Manual.

1. The information required in the O & M plan must satisfy the applicable requirements in the Stormwater Management Manual and Source Control Manual, as determined by the City.
2. A stormwater management facility that receives stormwater from a public right-of-way will be considered a public facility, and maintained by the City, unless the associated right-of-way is not part of the City's road maintenance system.
3. The City may enter into agreements with property owners to maintain stormwater facilities in joint facilities where public and private property flows commingle.
4. Failure to properly operate or maintain a stormwater management or source control facility according to the O & M plan may result in an enforcement action, including a civil penalty, as specified in Section 17.38.045.
5. A stormwater management facility that serves more than one lot must be clearly identified as being owned in common by all of the owners of the lots served by the facility, a homeowners' association, a public agency, or a nonprofit organization. If the facility is owned in common, all of the owners are equally responsible for its O & M.
6. A copy of the O & M plan and O & M form must be filed with the Bureau of Environmental Services. Staff may require the O & M plan and O & M form to be recorded and filed with the appropriate county Department of Assessment and Taxation.
7. It is a violation of this Chapter to remove or modify a stormwater management facility in a manner that will or could deviate from permitted site plans, without prior written approval from BES.

B. The [City Administrator](#)~~Director~~ may file instruments in county deed records to inform future property owners of regulations and conditions of approval related to the property as provided in this Chapter and associated rules, including the Stormwater Management Manual.

17.38.043 Inspections.

A. Right of Entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations or connections or for any other lawful purpose required by or authorized under [Portland Citythis](#) Code or ordinances of the City, the Charter, or state or federal law. This authorization includes but is not limited to inspection, sampling, testing, photographic

documentation, record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or other type of agreement.

B. Entry Protocols.

1. The BES representative will present a City photo identification card at the time of entry.
2. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

17.38.045 Enforcement.

A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter and associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will determine, subject to reasonable rebuttal evidence, the person or persons responsible for compliance including, but not limited to, the owner or owners of the facility, the owner or owners of the property, anyone known or suspected to have caused the violation, or any combination thereof. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to construct stormwater management or source control facilities to the standards of the City's Stormwater Management Manual, Source Control Manual or Section 17.38.035;
2. Failure to comply with a written order of the [City Administrator](#)~~Director~~, made under authority of this Chapter, within the specified time;
3. Failure to comply with any condition of an O & M plan or agreement issued under the authority of this Chapter or rules within a specified time;
4. Failure to maintain a stormwater management or source control facility leading to a potential or actual operating deficiency of the facility;
5. Failure to have a properly recorded, accurate O & M form or plan, as appropriate, on file with BES;
6. Failure to comply with enforcement actions as identified in the BES Enforcement Program Administrative Rules;
7. Failure to comply with drainage reserve rules in the City's Stormwater Management Manual.

B. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program Administrative Rules.

C. Civil Penalties. Persons violating this Chapter or associated rules may be assessed civil penalties of up to \$10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program Administrative Rules. Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

D. City Summary Abatement. To the extent permitted by law, the [City Administrator](#)~~Director~~ may recover from the person or persons responsible for the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;
2. A situation that poses an imminent danger to human health, public safety, or the environment; or
3. Continued noncompliance with [the Portland](#) City Code or associated rules.

E. Notice to responsible parties prior to summary abatement is not required. Following summary abatement, BES will notify all persons identified as having directed or benefitted from the violation. An error in the name of a property owner or address listed in the county assessment or taxation records will not affect the sufficiency of the notice. BES will bill each responsible party that BES determines caused, contributed to, or benefitted from the violation in order to recover the costs of the abatement.

F. Cost Recovery. The [City Administrator](#)~~Director~~ may recover from the person or persons responsible all reasonable costs incurred by the City that are attributable to or associated with the violations of this Chapter or associated rules.

G. Nothing in this Chapter is intended to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

17.38.050 Erosion Control Required.

All construction work on property or in the public right-of-way within ~~the City of~~ Portland must comply with Title 10, Erosion and Sediment Control Regulations.

17.38.055 River Restoration Program.

BES may implement river, stream, wetland and associated habitat restoration programs including, but not limited to, a mitigation bank and in-lieu fee program for implementation of Titles 17, 24, and 33 provisions. BES may accept funds from in-lieu fees, mitigation bank credits, donations, program administrative fees, and other sources and may expend such funds for environmental restoration, enhancement and improvement activities.

17.38.060 Compliance Cases, Administrative Reviews and Appeals.

A. Administrative Reviews and Appeals. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff, unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative reviews, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22 unless appeal is limited by administrative rule.

B. BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under Title 22 to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence.

17.38.070 Conflict.

Except as expressly provided by the City Council, this Chapter supersedes all ordinances or elements of ordinances to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.38.080 Severability.

If any provision, paragraph, word, or Section of this Chapter or associated administrative rules is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections will not be affected and will continue in full force and effect.

Chapter 17.39 Storm System Discharges

~~(Chapter replaced by Ordinance 184898; effective October 28, 2011.)~~

17.39.010 Intent.

The Bureau of Environmental Services (BES) is authorized to facilitate the development and management of the City's storm sewer and drainage system facilities to adequately convey, manage and protect the water quality of discharges of stormwater runoff. This Chapter applies to the City storm sewer and drainage systems as defined in this Chapter. This Chapter provides BES the authority to ensure these systems are operated in a manner that protects public health and the environment.

17.39.020 Definitions.

~~(Replaced by Ordinance 185397; Amended by Ordinances 186403, 186902 and 189506, effective June 21, 2019.)~~

As used in Chapter 17.39:

- A. “Capacity”** means the flow volume or rate for which a specific facility is designed to safely contain, receive, convey, infiltrate, or reduce pollutants from sanitary sewage, stormwater, wastewater, or other discharge in order to meet a specific performance standard.
- B. “City Storm Sewer and Drainage System”** means a City conveyance or system of conveyances, including but not limited to pipes, pumps, drainage ditches, constructed channels, groundwater-related disposal systems, underground injection control devices, stormwater management facilities, and storm drains, that are designed or used to collect and transport stormwater. “City Storm sewer and drainage system” does not include natural streams, creeks, ponds, lakes, a combined sewer, or part of a Publicly Owned Treatment Works, as defined in 40 CFR 122.2.
- C. “Clean Water Act (CWA)”** is the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.).
- D. “Code of Federal Regulations (CFR)”** means the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government.
- E. “Director”** means the Director of the Bureau of Environmental Services or the Director's designee.
- F. “Discharge”** means is any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching, leaking or placing of any material so that such material enters or is likely to enter a waterbody, groundwater or a public sewer and drainage system.
- G. “Discharge Authorization (DA)”** means a written approval by the ~~Director~~ City Administrator ~~which that~~ prescribes certain requirements or restrictions for a discharge to the City sewer and drainage system.
- H. “Discharger”** means any person who causes or permits a direct or indirect discharge to the City sewer and drainage system.
- I. “Groundwater”** means subsurface water that occurs in soils and geological formations that are fully saturated. Groundwater fluctuates seasonally and includes perched groundwater.
- J. “Groundwater Discharge”** means a discharge of water pumped or directed from the ground. Groundwater discharges include but are not limited to subsurface water from site remediation and investigations, well development, Brownfield development,

discharges from footing and foundation drains, and subsurface water associated with construction or property management dewatering activities.

K. “Illicit Connection” means any connection to the City’s storm sewer and drainage system not approved by the City or not in compliance with a valid City permit.

L. “Illicit Discharge” means any discharge to the storm sewer and drainage system that is not composed entirely of stormwater and is not authorized under Sections 17.39.030 or 17.39.040.

M. “Interference” means a discharge that, alone or in conjunction with other discharges, inhibits or disrupts the normal operation of the City’s storm sewer and drainage system or contributes to a violation of any requirement of the City’s NPDES Municipal Separate Storm Sewer System Discharge Permit. This includes any increase in the magnitude or duration of a violation, any increase in cost due to damage to the system, and any requirement for specialized treatment of stormwater caused by such a discharge.

N. “National Pollutant Discharge Elimination System (NPDES)” means the Clean Water Act (40 CFR Part 122) regulations that require dischargers to control and reduce pollutants in discharges to waters of the United States.

O. “Pollutant” means an elemental or physical material that can be mobilized or dissolved by water or air and that could create a negative impact to human health, safety, or the environment.

P. “Process Wastewater” means any water used during manufacturing or processing that comes into direct contact with or results from the production, or handling of a raw material, intermediate product, or finished product, including any by-product or waste product.

Q. “Representative Sample” means a sample that is collected by grab, composite or other technique that adequately reflects the quality of sediments or discharge for a specific area or entire site. Sampling shall must be conducted in accordance with 40 CFR Part 136 or a method approved by EPA or BES.

R. “Sampling Manhole” means a monitoring access point, such as a manhole in a sewer lateral, that is acceptable to BES and that allows for observation, sampling, or measurement of all discharges to the City’s sewer or drainage system.

S. “Stormwater” means water that originates as precipitation on a particular site, basin, or watershed.

T. “Toxic Substance” means any chemical listed in Oregon’s water quality standards for toxic pollutant tables in OAR, Division 340-041-033; the CWA effluent guidelines list of toxic pollutants at CFR 401.15; or the toxic chemical release reporting specific toxic chemical listings at 40 CFR 372.65 at concentrations

specified in those lists or, if no concentration is specified, at concentrations determined pursuant to BES Storm and Drainage Discharge Rules.

U. “Underground Injection Control (UIC) System” means any system or structure that is intended to discharge fluids below the ground surface. Examples of UICs include, but are not limited to sumps, drywells, trench drains, and infiltration galleries.

V. “UIC Water Pollution Control Facility (WPCF) Permit” means the Safe Drinking Water Act (40 CFR Part 144) and Oregon Administrative Rules (OAR 340-44) regulating the construction and operation of Class V UICs for stormwater discharges.

17.39.030 Allowable Discharges.

~~(Amended by Ordinance 186902, effective December 26, 2014.)~~

The following discharges are allowed to enter the City storm sewer and drainage system without notice to or authorization from the City unless required under administrative rules:

- A.** Stormwater that does not contain toxic substances and is not otherwise prohibited.
- B.** Non-stormwater discharges authorized by the City’s Water Pollution Control Facility (WPCF) Class V Underground Injection Control (UIC) or NPDES Municipal Storm Sewer System (MS4) Discharge permit, except for those discharges subject to the use of BMPs by administrative rule.

17.39.040 Prohibited Discharges.

~~(Amended by Ordinance 186403, effective February 1, 2014.)~~

The following discharges to the City’s storm sewer and drainage system are prohibited:

- A.** Any discharge in violation of the conditions of the discharger’s NPDES or other permit or authorization.
- B.** Any discharge that is intentionally routed to City UIC systems.
- C.** Any discharge with any of the following characteristics or materials:
 - 1.** A pH outside the range of applicable water quality standards in OAR Division 340-041;
 - 2.** A visible sheen;

3. A visible discoloration including, but not limited to, those attributable to dyes and inks, except for non-toxic dyes used or approved by the City to investigate the potential source of an illicit connection;
4. Heat that could damage or interfere with any element of the City's storm sewer and drainage system or that causes or contributes to a violation of the receiving-water temperature standards;
5. Toxic substances at concentrations that cause or contribute to violations of in-stream water quality standards set by DEQ or that exceed remedial action goals defined in a DEQ or EPA Record of Decision for the protection of surface water or sediment;
6. Refuse, rubbish, garbage, discarded or abandoned objects, articles, or accumulations of discharges that contain visible floating solids;
7. A process wastewater, unless authorized to discharge under a DEQ permit;
8. A volume that causes or contributes to an exceedance of the planned capacity of the storm sewer and drainage system, as established by the [City Administrator](#)~~Director~~;
9. Liquids, solids, or gases ~~that~~[which](#), either alone or by interaction, could cause a fire or an explosion including: waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius (using test methods described by 40 CFR 261.21); or discharges ~~that~~ [which](#) cause the atmosphere in any portion of the City's storm sewer and drainage system to reach a concentration of 10 percent or more of the Lower Explosive Limit per National Institute for Occupational Safety and Health standards;
10. A substance that causes or may cause a nuisance, hazard, interference, obstruction or damage to the City's storm sewer and drainage system, City personnel, the general public, receiving waters, or associated sediments; or
11. Any substance that causes or contributes to a violation of the terms of the City's NPDES MS4 Discharge Permit or Water Pollution Control Facility (WPCF) for Class V UIC Permit or in-stream water quality standards set by the State of Oregon.

D. Existing Discharges. Dischargers found to violate Section 17.39.040 may be required to obtain a BES discharge permit or authorization or the discharge may be terminated regardless of past acceptance by the City.

17.39.050 Notification and Control of Illicit Connections and Discharges.

~~(Amended by Ordinances 186403 and 186902, effective December 26, 2014.)~~

A. Notification by telephone must be provided to BES and other authorities as applicable for the following conditions:

1. Illicit Connections. Notice must be provided within twenty-four hours after discovery of an illicit connection to the City's storm sewer and drainage system.
2. Illicit Discharges. Notice must be provided immediately after discovery of the illicit discharge. Written reports must also be submitted to BES within five days of discovery of an illicit discharge or as otherwise specified by a BES discharge permit or authorization.

B. Control and Abatement. Dischargers ~~must~~shall immediately take all reasonable steps to minimize the effects of an illicit discharge to the City storm sewer and drainage system or any waters of the state. These actions may include cleaning the impacted public and private system components under City direction or performing additional monitoring to determine the nature and extent of the discharge.

C. Protection of City Systems. Dischargers must eliminate or control direct or indirect spills or discharges into the City's storm sewer and drainage system. The ~~City Administrator~~Director may require dischargers to make structural or operational modifications to their facilities, equipment, or drainage systems or to take other measures to protect the City's storm sewer and drainage system. Such structures and site modifications must be reviewed and approved by the ~~City Administrator~~Director to determine sufficiency. A permit or permit review may be required.

17.39.060 Discharge Permits and Other Authorizations.

~~(Amended by Ordinances 186403 and 189506, effective June 21, 2019.)~~

A. BES discharge permit or authorization may be required for discharges not subject to NPDES or UIC WPCF permit requirements for discharges that would:

1. Interfere with or harm the City storm sewer and drainage system;
2. Contribute to a violation of the City's NPDES stormwater discharge permit;
3. Contribute to a violation of the City's UIC WPCF stormwater permit;
4. Degrade the receiving surface water or groundwater; or
5. Have a negative effect on human health, safety or the environment.

B. A BES discharge permit or authorization request must be submitted and approved before non-routine or one-time discharges of materials except for those discharges that are allowed under Section 17.39.030.

C. A discharge request must be submitted and BES must approve or deny the permit before continuous or routine discharge occurs of materials other than stormwater that are not allowed under Section 17.39.030. A discharger must apply for a BES discharge permit or authorization when required by BES either at the time of development application or at the time of discovery of a discharge meeting the criteria of Subsection 17.39.060 A.

D. The discharger must allow site inspections by BES to verify site conditions or submit additional information, reports and plans as part of the DA or BES discharge permit request, such as:

1. A Stormwater Pollution Control Plan (SWPCP), ~~that~~which describes measures to eliminate, reduce and control the level of pollutants in discharges;
2. An Accidental Spill Prevention Plan (ASPP), ~~that~~which documents facility or discharger-specific spill response procedures and describes measures to prevent the release of prohibited or deleterious materials to the City storm sewer and drainage system;
3. A Best Management Practices (BMP) Plan ~~that~~ which describes actions to reduce or eliminates pollutants and hydrologic impacts associated with a discharge; or
4. Monitoring data to characterize the types and loads of pollutants in the discharges.

E. The ~~City Administrator~~Director ~~shall~~will provide the discharger written notice of approval or denial of the request to discharge and information on how to request further administrative review of the decision.

F. Any new or potential discharger identified through the City's development review process ~~must~~shall undergo a source control review. Such review ~~shall~~will identify any site controls, City permit, or DA submittals needed to approve and accept any new discharge.

17.39.070 Inspections.

~~(Amended by Ordinance 186192, effective September 6, 2013.)~~

A. Right of Entry. To the full extent permitted by the law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections or for any other lawful purpose required by or authorized under Portland City~~this~~ Code or ordinances of the City, the Charter, or state or federal law. This authorization includes but is not limited to inspection, sampling, testing, photographic documentation, record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement or other type of agreement.

B. Entry Protocols.

1. The BES representative will present a City photo identification card at the time of entry.
2. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site to be inspected as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

17.39.080 Sampling.

~~(Amended by Ordinances 186403 and 186902, effective December 26, 2014.)~~

BES may sample or require a discharger to provide a representative sample of any discharge, or any material intended to be discharged, for the purposes of characterization or to determine compliance with Section 17.39.040, applicable permit conditions, DEQ or EPA requirements, or BES discharge permit or authorization.

A. Dischargers may submit monitoring data gathered for other purposes that also satisfies these requirements. Dischargers ~~shall~~must conduct sampling and analysis in accordance with 40 CFR Part 136 or other EPA- or BES-approved methods.

B. All dischargers with continuous or routine discharges must provide a sampling manhole or other City-approved sampling location upstream of the physical connection or discharge point into the City system. City access to the sampling location must be provided.

17.39.090 Reporting Requirements.

A. Reports. Dischargers may be required to submit reports or other technical information needed to determine compliance with this Chapter. Such reports may include evaluations of site conditions, visual observations of discharges, discharge sampling results, summaries of operational and maintenance activities, compliance schedules for implementing remediation activities, or other information as requested by the ~~City Administrator~~Director to characterize discharges and site conditions. The City may accept reports required by NPDES or other discharge permits. Reports ~~must~~shall be submitted in a timely manner as required by the ~~City Administrator~~Director.

B. Fraud and False Statements. Dischargers making false statements in any submittal, report or other document required by this Chapter or associated rules ~~shall be~~are subject to the enforcement provisions of this Chapter and any other applicable local and state laws and regulations.

17.39.100 Records Retention.

Dischargers subject to this Chapter ~~must~~ maintain and preserve for no fewer than five years any records, books, documents, memoranda, reports, correspondence and document summaries relating to observation, sample collection and analysis conducted in order to comply with this Chapter or associated rules. All records that are the subject of any enforcement or litigation activities brought by the City ~~must~~ be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

17.39.110 Enforcement.

~~(Replaced by Ordinance 186192; Amended by Ordinance 186403, effective February 1, 2014.)~~

A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Discharges with any of the attributes of the prohibited discharge list of Section 17.39.040;
2. Failure to meet any requirement or condition of a BES discharge permit or authorization, including exceedances of a discharge limit, issued under the authority of this Chapter or associated rules;
3. Failure to comply with a BES discharge permit or authorization-related submittal schedule or a violation remediation schedule;
4. Failure to pay review fees or assigned penalties for violations; or
5. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15).

B. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

C. Civil Penalties. Dischargers violating this Chapter or associated rules may be assessed civil penalties of up to \$10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full. Dischargers

violating this Chapter will be solely responsible for reimbursing the City's abatement expenses.

D. Cost Recovery. The ~~City Administrator~~Director may recover all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15. Failure to pay costs related to a civil penalty or summary abatement within 30 days following a final determination is grounds for permit revocation or termination of the permittee's discharge

E. City Summary Abatement. To the extent permitted by law, the ~~City Administrator~~Director may recover from the person causing the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;
2. A situation that poses an imminent danger to human health, public safety, or the environment; or
3. Continued noncompliance with the PCC or associated rules.

F. Nothing in this Chapter is intended to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

17.39.120 Administrative Reviews, Appeals, and Compliance Cases.

~~(Replaced by Ordinance 186192; Amended by Ordinances 186902 and 189750, effective November 29, 2019.)~~

A. Administrative Review and Appeal. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff, unless administrative review is limited by administrative rule. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22, unless appeal is limited by administrative rule.

B. BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under PCC Title 22 to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence in the case.

17.39.130 Conflict.

~~(Amended by Ordinance 186192, effective September 6, 2013.)~~

This Chapter supersedes all other ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter are hereby repealed to the extent of such inconsistency or conflict.

17.39.140 Severability.

~~(Amended by Ordinance 186192, effective September 6, 2013.)~~

If any provision, paragraph, word or Section of this Chapter or associated rules is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections ~~shall~~will not be affected and ~~shall~~will continue in full force and effect.

Chapter 17.40 Protection of Public Right-of-Way

~~(Chapter amended by Ordinance 184957, effective November 25, 2011.)~~

17.40.010 Injuries to Pavement.

~~(Amended by Ordinance 184957, effective November 25, 2011.)~~

A. It is unlawful for any person to cause or permit to come in contact with any paved roadway, curb or sidewalk, any corrosive or other substance ~~which~~that may tend to disintegrate or injure such pavement. This ~~shall~~does not apply to salt or salt mixtures placed thereon to melt snow or ice.

B. It is unlawful for any person to cause or permit any object to fall upon or be placed upon any paved roadway, curb or sidewalk of such weight or other characteristic as to crack, break or disturb the pavement surface. This ~~shall~~does not apply to ordinary wear and tear from vehicular traffic.

C. It is unlawful for any person to cause or permit to be placed upon any pavement without immediately removing the same, any concrete, plaster or other material likely to adhere to the pavement. However, during the course of construction upon adjacent property, the ~~Director of the Bureau of Transportation~~City Administrator may issue a permit for such activity if he or she determines that sufficient protection will be provided to prevent injury to the pavement.

D. It is unlawful for any person to cause or permit any fire to be kindled or made upon any paved roadway, curb or sidewalk or to heat any material in close proximity to such paved surface.

17.40.020 Endangering Pavement.

~~(Amended by Ordinance 184957, effective November 25, 2011.)~~

In the course of construction under a permit issued by the City, it is unlawful for any person to cause or permit any undermining of any pavement not cut or to be

replaced as a part of the work; to tunnel under street area without providing complete support of the pavement above such tunnel; to cause or permit to be washed away the ground or fill material supporting pavement; to make any excavation within street area pursuant to permit without securely and safely bracing such excavation so as to prevent the sides or walls of the excavation from falling or caving in; to cause or permit any excavation to be made on private property adjacent to street area without securely and safely bracing the wall or side of the excavation near the paved area so as to prevent falling or caving in and to protect the support of the pavement; or to cause or permit any other act to be done ~~which~~ that would tend to endanger the direct or lateral support of the pavement.

17.40.030 Charges for City Patching of Roadway Areas.

~~(Amended by Ordinances 145974 and 173369, effective May 12, 1999.)~~

Any person who has dug up or cut into the roadway surface of a street paved with bituminous paving may request the City to replace the roadway area by patching the pavement. This ~~shall~~ does not apply to local improvements, public improvements under permit, or general maintenance of roadway areas by the City. The applicant ~~shall~~ must first prepare the area, if the base has been disturbed, by removing any excavated material from below the pavement and filling and compacting the same to sub-base level with gravel, all at his own expense. The applicant ~~shall~~ must pay for the repair on a cost basis. The cost basis will include the actual costs of all labor, equipment, materials and supervision required to do the work along with appropriate overhead costs as determined in accordance with provisions of the finance regulations.

17.40.040 Damages to Public Right-of-way.

~~(Added by Ordinance 184957, effective November 25, 2011.)~~

A. If in the ~~Director of the Bureau of Transportation~~ City Administrator's opinion the public right-of way has been negligently or intentionally damaged, the City Administrator ~~Director of the Bureau of Transportation~~ may act to identify the person responsible for such damage. The City Administrator ~~Director of the Bureau of Transportation~~ may then issue a notice requiring the responsible person to repair and restore the public right of way to the City Administrator ~~Director of the Bureau of Transportation~~'s satisfaction.

B. Once the responsible person has been notified to repair the public right-of-way to the City Administrator ~~Director of the Bureau of Transportation~~'s satisfaction, the responsible person ~~shall~~ must undertake to make and complete the repairs within 20 days.

C. If the responsible person fails, neglects or refuses to make repairs within the specified time, the City Administrator ~~Director of the Bureau of Transportation~~ may;

1. Institute an action before the Code Hearings Officer as set out in Title 22 of Portland City~~this~~ Code, or
2. Cause appropriate action to be instituted in a court of competent jurisdiction, or
3. Taking such other actions as the City Administrator~~Director of the Bureau of Transportation~~, in the exercise of his or her~~their~~ discretion, deems appropriate including, but not limited to, summary abatement.

17.40.050 Disposition of Asphalt, Concrete, Rock and Dirt.

~~(Added by Ordinance 185351, effective June 22, 2012.)~~

A. All asphalt, concrete, rock and dirt removed from existing infrastructure in the public right-of-way ~~shall~~must be disposed of at the direction of the City Administrator~~Director of the Bureau of Transportation~~ who has the authority for the disposal of such materials.

B. The asphalt, concrete, rock and dirt from existing infrastructure in the right-of-way are often recycled by the City into an aggregate and back fill products, which the City uses as road base on residential streets, trench fill and back fill. If the City generates more of these recycled products ~~than~~than it can use, the Director of the Bureau of Transportation may sell or donate the materials.

1. Pricing of the materials to be sold ~~shall~~will be based on current market price and reviewed at least biannually by the Bureau of Transportation.

C. The City Administrator~~Bureau of Transportation, at the discretion of its Director,~~ may levy a fee for accepting and processing asphalt, concrete, rock and dirt from third parties ~~asphalt, concrete, rock and dirt~~ for the purposes of recycling.

1. Pricing of this service (tipping fee) ~~shall~~will be based on current market price and reviewed at least biannually by the Bureau of Transportation.

D. Revenue generated by selling these materials and services ~~shall~~will be returned to the Bureau of Transportation.

17.40.060 Disposition of Leaves.

~~(Added by Ordinance 185351, effective June 22, 2012.)~~

A. All leaves collected from the public right-of-way ~~shall~~must be disposed of at the direction of the City Administrator~~Director of the Bureau of Transportation~~ who has the authority for the disposal of such materials.

B. The leaves collected from the existing right-of-way are often processed into compost, which the City uses as erosion control and soil amendment. If the City

generates more of these recycled products ~~than~~ it can use, the Director of the Bureau of Transportation may sell or donate the materials.

1. Pricing of the materials to be sold ~~shall~~ will be based on current market price and reviewed at least biannually by the Bureau of Transportation.

C. The ~~City Administrator~~ Bureau of Transportation, ~~at the discretion of its Director~~, may levy a fee for accepting and processing leaves or other matter consistent with composting from third parties for the purposes of recycling.

1. Pricing of this service (tipping fee) ~~shall~~ will be based on current market price and reviewed at least biannually by the Bureau of Transportation.

D. Revenue generated by selling these materials and services ~~shall~~ will be returned to the Bureau of Transportation.

Chapter 17.41 Landslide Abatement

~~(Chapter added by Ordinance 165864, effective September 30, 1992.)~~

17.41.010 Purpose.

~~(Amended by Ordinance 173369, effective May 12, 1999.)~~

The purpose of this Section is to protect the public from hazards created by landslides that deposit material on the public right-of-way, remove material from the public right-of-way or threaten the stability of the right-of-way. The intent of this Section is to provide for the immediate abatement of a landslide by the responsible property owner or, if necessary, by the City.

17.41.020 Definitions.

~~(Amended by Ordinances 173369, 182760 and 189413, effective March 6, 2019.)~~

For purposes of this Chapter 17.41:

A. **“Costs”** means any costs, direct or indirect, incurred by the City in the abatement of a landslide. Costs may include, but are not limited to, those associated with the removal of debris, traffic control and barricading, engineering, construction, erosion control, reforestation, restoration and repair of existing public facilities, City overhead as provided in 5.48.030, and the revenue service and program of the City Administrator ~~Revenue Division’s~~ charges established in 17.12.020 B.

B. **“Landslide”** means any detached mass of soil, rock, or debris that is of sufficient size to cause damage and moves down a slope or stream channel.

C. **“Owner”** means the person or persons shown on the most recent property tax records.

D. **“Responsible property”** means the property or properties abutting that portion of the public right-of-way on which materials have been deposited by a landslide, or property or properties ~~which that~~ has caused the instability of the public right-of-way.

17.41.030 Applicability.

~~(Amended by Ordinances 173369 and 182760, effective June 5, 2009.)~~

This Chapter applies to:

A. Landslides that originate on private property and deposit material on the public right-of-way; and

B. Landslides in unimproved public right-of-way as defined by Chapter 17.42 of ~~Portland City~~this eCode.

C. Landslides in public right-of-way caused by actions on property abutting such public right-of-way.

D. Landslides that threaten the stability of the public right-of-way.

17.41.040 Landslide As a Nuisance; Costs.

~~(Amended by Ordinance 173369, effective May 12, 1999.)~~

A. A landslide is a public nuisance. The nuisance is subject to abatement as provided by Title 29, except as provided in this Chapter. Abatement by the City ~~shall~~will be conducted at the direction of the City ~~Administrator~~Engineer. The City ~~Administrator~~Engineer may direct summary abatement where there is an immediate threat to the public safety.

B. Recovery of costs incurred by the City in the abatement of a landslide ~~will~~shall be as provided in Title 29, and such costs ~~will~~shall be assessed to the responsible property.

17.41.050 Abatement.

~~(Amended by Ordinances 176955 and 191736, effective July 1, 2024.)~~

A. The owner of the responsible property is required to abate the landslide.

B. Abatement of a landslide includes:

1. Immediate work necessary to remove the debris from any areas where it would constitute or create a hazard to the public and to temporarily stabilize the slope; and

2. Permanent stabilization of the slope, as necessary, through engineered solutions such as retaining walls or riprap. Plans and specifications for permanent stabilization ~~shall~~must be prepared by a professional engineer registered in the State of Oregon and ~~shall~~must be approved by the City ~~Administrator~~Engineer.

C. If summary abatement is not directed, the City ~~Administrator~~Engineer may post notice on the responsible property of the requirement for immediate abatement, including dates by which the abatement must be commenced and completed. Such notice ~~will~~shall also be mailed to the owner and/or occupant of the responsible property. If the abatement is not commenced or completed within the time provided in the notice, the City ~~Administrator~~Engineer may cause the landslide to be abated and the costs assessed against the responsible property.

D. Where necessary, the City ~~Administrator~~Engineer may also post and mail notice regarding the requirement for permanent stabilization of the slope. Such notice ~~will~~shall include the date by which plans for such permanent stabilization ~~shall~~must be submitted to the City ~~Administrator~~Engineer. If such plans are not submitted by the stated date, the City ~~Administrator~~Engineer may cause the permanent stabilization portion of the abatement to be accomplished and the cost assessed against the responsible property.

E. Before beginning any work in the right-of-way, the owner of the responsible property ~~shall~~must obtain the permits required by Chapter 17.24 of ~~Portland City~~this Code.

F. A building permit ~~shall be~~is required for permanent stabilization work performed on private property. Such permits ~~shall~~must be approved by the ~~Portland Permitting & Development and the City Engineer~~City Administrator.

G. If at any stage of the abatement, the owner of the responsible property fails to comply with the requirements imposed by the City ~~Engineer~~Administrator, the City ~~Administrator~~Engineer may cause the abatement to be completed by the City and the cost assessed against the responsible property.

H. If there is more than one responsible property, the City ~~Administrator~~Engineer ~~will~~shall apportion all costs incurred by the City in abatement based on the front footage of the slide area in the right-of-way.

I. Nothing in ~~Portland City~~this Code ~~shall~~may be deemed to prevent a party required by this Chapter to pay for abatement of a landslide from exercising any rights her or she may have against the party or parties who may have caused the landslide.

17.41.060 Administrative Review.

~~(Amended by Ordinance 173369, effective May 12, 1999.)~~

Administrative review ~~will~~shall be conducted as provided in Title 29, except that the review ~~will~~shall be conducted by the City ~~Administrator~~Engineer. An appeal ~~shall~~must be to the Code Hearings Officer as provided in Chapter 22.10 of ~~Portland City~~this Code.

Chapter 17.42 Property Owner Responsibility for Streets

~~(Chapter added by Ordinance 172051, effective March 11, 1998.)~~

17.42.010 Policy.

~~(Amended by Ordinances 177124, 189290, 190479 and 191663 effective April 19, 2024.)~~

A. It has been and remains the policy of the City ~~of Portland~~ that streets are constructed at the expense of abutting property owners and are maintained by abutting property owners until street improvements are constructed to the applicable standards of, and accepted for maintenance by, the City. Until a street improvement has been constructed to City standards and the City has expressly assumed responsibility for street maintenance, it is the exclusive duty of the abutting property owners to construct, reconstruct, repair and maintain the non-maintained street in a condition reasonably safe for the uses that are made of the street and adjoining properties. Streets that have not been improved to City standards are not and will not be maintained or improved at City expense, except at the discretion of the City and as provided in ~~Portland City~~this Code and the ~~City~~ Charter.

The City may, at its discretion, conduct maintenance and repair activities on gravel streets and alleys. Such an action will not constitute an express or implicit decision by the City to accept maintenance responsibility for such a street or alley.

B. Disputes regarding the condition of the non-maintained street are private actions among affected property owners.

17.42.020 Maintenance and Construction Responsibility.

~~(Amended by Ordinance 177124 and 190479, effective June 30, 2021.)~~

The City assumes no responsibility for maintenance, construction or reconstruction of any street until and unless:

A. The street has been constructed to City standards and specifications; and

B. The City has expressly accepted maintenance responsibility for the street by the City ~~Engineer~~Administrator.

17.42.025 Maintenance Restrictions.

(Added by Ordinance 177124; amended by Ordinances 177750, 184522, 185448, 186053 and 191663, effective April 19, 2024.)

A. Notwithstanding anything to the contrary in this Title 17, residents and property owners are not required to obtain a permit to maintain public streets abutting their properties if those streets have not been accepted for maintenance by the City or any other jurisdictions, provided the following conditions are met:

1. The travel lane location and width of the street remains the same;
2. There is no resulting change in existing drainage patterns outside the public right-of-way;
3. Drainageways located within public rights-of-way are not filled in or otherwise altered in any manner that could impact the flow of water;
4. The materials used for maintaining the street are equivalent to the existing street materials, except that gravel may be used to resurface a dirt road;
5. Asphalt, concrete or other man-made materials may not be applied to existing dirt or gravel surfaces, nor may existing dirt or gravel surfaces be converted to a paved surface;
6. The maintenance activities and resulting condition of the street do not adversely affect surrounding properties;
7. Trees in the public right-of-way are not removed or pruned unless a tree permit has been obtained as provided in Title 11, Trees; and
8. Speed bumps or other types of devices intended to slow traffic are not constructed.

B. The City ~~Engineer-Administrator~~ retains final authority to regulate all maintenance and construction activities in the public right-of-way, regardless of whether a permit is required or obtained.

C. The City ~~Administrator~~~~Traffic Engineer~~ retains exclusive authority to establish traffic control devices as provided in Section 16.10.080 and in Section 16.10.200. This includes, but is not limited to, all regulatory, warning, and guide signs, and all types of pavement markings.

17.42.030 Liability.

The owner~~(s)~~ of land abutting any street that has not been improved to City standards and accepted for maintenance ~~shall~~will be liable for ~~any and~~ all damages to any person who is injured or otherwise suffers damages resulting from the defective condition of the street, or by reason of the property owner's failure to keep the street in safe condition and good repair. ~~Said-The~~ property owner~~(s)~~ ~~shall~~will be

liable to the City ~~of Portland~~ for any amounts ~~which that~~ may be paid or incurred by the City by reason of all claims, judgments or settlements, and for all reasonable costs of defense, including investigation costs and attorney fees, by reason of ~~said the~~ property owner's failure to satisfy the obligations imposed by the Charter and ~~Portland City Code of the City of Portland~~ to maintain, construct and repair such streets.

~~17.42.040 Definition.~~

~~(Repealed by Ordinance 190479, effective June 30, 2021.)~~

Chapter 17.43 Pedestrian Plazas

~~(Chapter added by Ordinance 188556, effective August 16, 2017.)~~

17.43.010 Purpose of Establishing Prohibited Conduct.

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

17.43.020 Pedestrian Plaza Defined.

Pedestrian plazas are places designated by the City ~~of Portland~~ as unique places where licensed businesses and pedestrians come together. They are not parks. Therefore, sitting or lying down is not allowed. Travel through pedestrian plazas should be unfettered, however, conduct incidental to travel, such as speech or expression, is allowed if it is performed in a reasonable amount of time that does not detract from the enjoyment of the plaza by all persons and if it is done in a manner that is consistent with the use of the plaza as a unique place conducive to pedestrian enjoyment.

17.43.030 Soliciting For or Conducting Business.

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

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

1. Sell or offer to sell any article or service;

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

C. Nothing in this Section ~~shall~~ prohibits any act by any ~~P~~olice ~~O~~fficer in the scope of employment or duty, or by any person performing any work on behalf of the City, nor ~~shall~~ may this Section be construed to prohibit any act protected under the circumstances by the federal or state constitution.

17.43.040 Unlawful Urination or Defecation.

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

17.43.050 Unlawful Acts Involving Alcohol, Controlled Substances or Prescription Drugs.

A. No person ~~shall~~ may sell or consume any alcoholic beverage, or possess any open container of alcoholic beverage, in any pedestrian plaza, except under a concession contract or lease, or by permit issued under Chapter 17.24 or 17.25. Such permit may include any conditions as, in the discretionary judgment of PBOT, will promote the preservation of the pedestrian plaza for the peaceful enjoyment of the public at large.

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

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

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

D. Nothing in Subsection B. of this Section ~~shall~~prohibits the possession in a pedestrian plaza by any person 21 years of age or older of not more than one ounce of usable cannabis, so long as that cannabis is in a closed container.

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

17.43.060 Possession of Weapons.

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

17.43.070 Structures in Pedestrian Plazas.

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

17.43.080 Disposing of Rubbish.

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

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

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

17.43.090 Vandalism; Protection of Pedestrian Plaza Property and Vegetation.

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

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

17.43.100 Fires and Fireworks Prohibited.

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

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

C. Notwithstanding any other provision of ~~Portland City~~this Code, a person who violates this section ~~shall~~will not be subject to exclusion under these rules, or to criminal enforcement under Section 1.01.140 of ~~Portland City~~this Code. Rather, any person violating this section ~~shall~~will be required to leave the pedestrian plaza in which the offense occurred, for the remainder of the day. Enforcement will be administered by Police. All Portland Police Bureau Officers, including all Transit Officers, are authorized to enforce pedestrian plaza rules.

17.43.110 Animals.

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

B. All dogs within any pedestrian plaza ~~shall~~must be held securely on a leash, no more than 8 feet in length, at all times.

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

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

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

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

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

H. Any animal in any pedestrian plaza in violation of any provision of this Section may be impounded, at the expense of the animal's owner, on the order of any ~~p~~Police ~~O~~officer or of any ~~A~~animal ~~C~~control officer.

I. The prohibitions of this Section do not apply to animals while in the course of the official performance of police or rescue activities.

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

17.43.120 Use of Certain Devices or Equipment.

~~(Amended by Ordinance 191311, effective July 7, 2023.)~~

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

B. No person ~~may~~shall operate any motorized vehicle or motorized wheeled vehicle or motorized wheeled device in any pedestrian plaza, except designated vehicle

areas, or by permit. The prohibitions of this Section do not apply to authorized service or emergency vehicles or to the following electric mobility devices used by persons who need assistance to be mobile, and used in accordance with all applicable pedestrian plaza and traffic rules:

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

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

17.43.130 Remote Control Vehicles, Aircraft and Watercraft.

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

17.43.140 Emergency Pedestrian Plaza Closure.

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

B. Whenever it is in the interest of public health or safety to do so, ~~the Commissioner or~~ the Mayor, the ~~City Administrator~~Director, or ~~Pa~~Pa police ~~O~~Officer may close any pedestrian plaza, or any part ~~thereof~~it, and may erect or cause to be erected barricades prohibiting access to any such pedestrian plaza, or part ~~thereof~~it, at appropriate locations. Notices that any pedestrian plaza, or part ~~thereof~~it, is closed ~~shall~~will be posted at appropriate locations during the period of such closure, if feasible; however, failure to post such notices ~~shall~~will not invalidate such closure nor ~~shall~~will it invalidate any exclusion for violating this Section.

C. No person ~~shall~~may enter any pedestrian plaza or any part ~~thereof~~it that has been closed under this Section, or remain in such pedestrian plaza, or part ~~thereof~~it,

after having been notified of the closure and having been requested to leave by ~~the Commissioner,~~ the Mayor, the ~~City Administrator~~Director, or ~~a P~~a ~~Police O~~fficer. A closure under this Section ~~shall will~~ not exceed 18 hours without the written approval of ~~the both the Commissioner and~~ the Mayor.

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

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

17.43.150 Trespassing and Areas Closed to the Public.

A. No person, without the consent of the City Administrator~~Director~~ or ~~other authorized~~a P~~olice O~~fficer, ~~may shall~~ enter any pedestrian plaza upon which the words "no admittance," or similar words indicating that entry is prohibited or restricted, are displayed.

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

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

17.43.160 Condition of Parole or Probation or Judicial or Other Order.

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

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

No person ~~may~~shall violate any rule or regulation established under the authority of these rules, nor refuse or fail to obey any lawful direction of a ~~P~~Police ~~O~~Officer. For purposes of this Section, a direction of a ~~P~~Police ~~O~~Officer is lawful if it directs a person to obey, or to cease a violation of, any law, rule or regulation applicable in the pedestrian plaza, or if it is otherwise reasonably related to protection of the health, welfare or safety of the person or of any other person in the pedestrian plaza or to the prevention of damage to property, or if it is reasonably necessary to preserve the peace or to prevent the disruption of any organized activity or permitted event in the pedestrian plaza, or if it relates to enforcement of any state law or City ~~of Portland~~Ordinance.

17.43.180 Pedestrian Plaza Exclusions.

A. In addition to other remedies provided for violation of these rules, or of any of the laws of the State of Oregon, any ~~P~~Police ~~O~~Officer may exclude any person who violates any applicable provision of law in any pedestrian plaza from that pedestrian plaza in accordance with the provisions of this Section.

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

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

D. Before issuing an exclusion under this Section, a ~~P~~Police ~~O~~Officer ~~shall~~will first give the person a warning and a reasonable opportunity to desist from the violation. An exclusion ~~shall~~will not be issued if the person promptly complies with the direction and desists from the violation. Notwithstanding the provisions of this

Subsection, no warning ~~shall~~will be required if the person is to be excluded for engaging in conduct that:

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

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

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

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

4. Constitutes a violation of any of the following provisions of [Portland City](#)~~this~~ Code:

- a.** Section 14A.40.030 - Indecent Exposure;
- b.** Section 14A.40.040 - Loitering to Solicit Prostitution;
- c.** Section 14A.40.050 - Unlawful Prostitution Procurement Activities;
- d.** Section 14A.60.010 - Possession of a Loaded Firearm in a Public Place;
- e.** Section 14A.60.020 - Discharge of a Firearm;
- f.** Section 14A.60.030 - Tear Gas and Stun Guns;
- g.** Section 14A.60.040 - Explosives and Bottle Bombs;

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

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

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

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

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

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

plaza are simultaneously stayed pending appeal, the effective periods of those ~~which-that~~ are affirmed ~~shall-will~~ run consecutively.

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

Chapter 17.44 Street Obstructions

~~(Chapter replaced by Ordinance 184957, effective November 25, 2011.)~~

17.44.010 Unlawful Acts Enumerated.

A. It is unlawful for any person to obstruct or cause to be obstructed any roadway, curb or sidewalk by leaving or placing, any object, material or article ~~which-that~~ may prevent free passage over any part of such street or sidewalk area. This Section does not authorize any action in violation of any other Title or regulation.

B. It is unlawful for any person to erect or cause to be erected any structure in, over or upon any dedicated street area, except that ~~Director of the Bureau of Transportation~~ the City Administrator may, based on findings of necessity, grant permission for walls, fences and steps, that otherwise comply with the Code of the City. Also, on buildings whose front is located on the property line, the City Administrator ~~Director of the Bureau of Transportation~~ may allow decorative facings, certain types of utility meters, utility valves, and other utility appurtenances, to extend into the street area an amount that does not interfere with the public use of said street. The City Administrator ~~Director of the Bureau of Transportation~~, upon determining a public need for areas occupied by such walls, fences, steps, facings, or utility meter valves and other appurtenances, may revoke said permission and the property owner or utility will be required to remove them from the street area.

C. It is unlawful for any person to erect or cause to be erected any sign in, over, or upon any public right of way. For the purposes of this section, “sign” ~~shall-be~~ is defined as provided in Title 32.

D. This Section ~~shall~~ does not apply to:

1. Any use, sign, or structure for which a permit has been issued or ~~which-that~~ is erected under authority of any Title;
2. Motor vehicles lawfully parked pursuant to City Regulations;
3. Barricades placed by or with the approval of the City Administrator ~~Director of the Bureau of Transportation or the Traffic Engineer~~; nor
4. Temporary closures and occupancies pursuant to this Chapter.

5. Merchandise in the course of delivery may be placed on the sidewalk while actively loading and unloading for not longer than two hours provided that the provisions of City Code Section 14.50.030 Sidewalk Use are complied with.

Chapter 17.45 Advertising on Bus Benches

~~(Chapter replaced by Ordinance 184957, effective November 25, 2011.)~~

17.45.030 Advertising Bench Allowed.

~~(Amended by Ordinance 185397, effective July 6, 2012.)~~

For the free use and accommodation of persons waiting for public transportation, benches may be placed on the street area between the property line and the back of the through pedestrian zone and between the curb closest to the street center line and front of the through pedestrian zone in the public right of way of the City, and such benches may bear advertising messages. Permits for benches bearing advertisements ~~shall~~ may be granted only to the Tri-County Metropolitan Transit District (TriMet). For purposes of this Chapter, the term "bench" ~~shall~~ also apply iesy to transit shelters owned, operated and maintained by TriMet.

17.45.040 Fee.

An annual fee as prescribed in Section 17.24.010 ~~shall~~ will be collected for every permit issued to install an advertising bench. This fee is due July 1 and ~~shall~~ must be paid by July 15. Permits may be issued without payment of any fee for benches where no advertising or other message will be displayed.

17.45.050 Revocation.

The ~~City Administrator~~ Director of the Bureau of Transportation may revoke any permit issued under Sections 17.45.030 - 17.45.040 at any time in the event the public's need requires it, the permittee fails to comply with the conditions of the permit, for any fraud or misrepresentation in the application, or for any reason ~~which~~ that would have been grounds for denial of the initial application.

17.45.060 Authority.

The ~~Director of the Bureau of Transportation~~ City Administrator is authorized to enter into an intergovernmental agreement with TriMet to govern procedures in the issuance of permits under this Section.

Chapter 17.46 Publication Boxes

~~(Chapter replaced by Ordinance 186965, effective February 6, 2015.)~~

17.46.010 Definitions.

A. **“Abandoned Publication Box”** means a Publication Box (including a Co-located Publication Box) that has remained empty for 30 or more days. The basis for the conclusion that the Publication Box has not been stocked with new materials for 30 days or more ~~shall~~will be documented in the enforcement records.

B. **“ADA Ramp”** means a combined ramp and landing to accomplish a change in level at a curb in order to provide access to pedestrians using wheelchairs.

C. **“Co-located Publication Box”** means a Publication Box designed to dispense two or more different Publications.

D. **“Crosswalk”** means any Crosswalks either “marked” or “unmarked”. A “marked crosswalk” is any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway. An “unmarked crosswalk” is the imagined extension of a sidewalk or shoulder across a street at an intersection. An unmarked crosswalk exists at all intersections unless specifically marked otherwise.

E. **“Distributor”** means a person responsible for placing, installing, or maintaining a Publication Box.

F. **“Publication Box”** means a free standing self-service or coin-operated box, container, or other dispenser installed, used, or maintained on the Sidewalk or public Right-of-Way for the sale or distribution of newspapers, periodicals, or other Publications to the general public.

G. **“Person”** means any natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, and/or the manager, lessee, agent, servant, officer, or employee of any of them.

H. **“Publication”** means any printed material.

I. **“Right-of-Way”** means property subject to public use for existing or future streets, curbs, planting strips, or sidewalks. Property subject to a right-of-way may be through an express, implied, or prescriptive easement granted to or controlled by the ~~e~~City or other public entity or may be owned by the ~~e~~City or other public entity in fee simple or other freehold interest. The Portland Bureau of Transportation, as stewards of the right-of-way, administers and regulates use of the public right-of-way on behalf of the City.

J. **“Sidewalk”** means that portion of the street between the curb lines or the lateral lines of roadway and the adjacent property lines intended for use by pedestrians.

K. **“Street”** means all that area dedicated to public use for public street purposes and ~~shall~~includes, but is not ~~be~~ limited to, roadways, parkways, alleys and sidewalks.

L. “Through Pedestrian Zone” means the area intended for pedestrian travel as defined by the Portland Pedestrian Design Guide.

M. “Transit Platform” means any Portland StreetCar platform or TriMet bus stop, bus layover zone or light rail station platform. This definition applies (but is not limited to) transit facilities located on public or private streets, in transit centers and on the Transit Mall.

17.46.020 Publication Boxes within the Right-of-Way.

Publication Boxes may be placed within the Right-of-Way as allowed by this Chapter.

17.46.030 Limitations on Publication Box Placement.

A. All Publication Boxes must be placed on a Sidewalk, parallel to the curb and face the Through Pedestrian Zone.

B. Publication Boxes ~~that~~which meet all of the requirements of this code may be chained to a sign post, street light or signal/utility pole. If the sign post, street light or signal/utility pole is painted a plastic or rubber coated steel chain/cable is required. The distance between the Publication Box and the sign post, street light, or signal/utility pole ~~shall~~may be no more than 6 inches. If the sign post, street light, or signal/utility pole is not owned by the City ~~of Portland~~ then the written permission of the owner of such property is required.

C. Publication Boxes may not be fastened in any way to street furniture, public art, bicycle racks or street trees.

D. Publication Boxes placed within the right-of-way ~~must~~shall be located in groupings with a combined length of no greater than 10 feet, immediately abutting one another. At least 20 feet must be left clear of Publication Boxes between groupings of Publication Boxes along the same block face.

E. The maximum height of any Publication Box ~~shall be~~is 50 inches. The maximum width of any Publication Box ~~shall be~~is 24 inches. The maximum depth of any such publication box ~~shall be~~is 24 inches.

F. Publication Boxes cannot be located:

1. within a traffic island, median or traffic circle;
2. within 5 feet of any Crosswalk;
3. within 5 feet of a fire hydrant;
4. within 5 feet of a drinking fountain;

5. within 5 feet of any public art;
6. within 5 feet of any driveway, alley, or curb cut;
7. within 5 feet of any portion of an ADA Ramp;
8. within 5 feet of a marked disabled parking space;
9. within 5 feet of a marked loading or taxi zone;
10. within a Transit Platform unless allowed by Portland StreetCar or TriMet;
11. at any distance less than 2 feet from the street side face of the curb, measured to the side of the Publication Box closest to the curb;
12. within the corner of two intersecting sidewalk corridors, as determined by the adjacent property lines extended;
13. where the unobstructed Through Pedestrian Zone is less than 8 feet within Pedestrian Districts and City Walkways, or 6 feet on all other sidewalks. (Sidewalk classification for this purpose shall-will be determined pursuant to the City's Transportation System Plan);
14. where the Publication Box may cause damage to any landscaping, including but not limited to lawn, flowers, shrubs or trees;
15. where the Publication Box may cause damage to or interfere with the use of pipes, vault areas, telephone or electrical cables/wires or other utility facilities;
16. on any grating, manhole cover or access lid;
17. where the Publication Box obstructs access to parked vehicles;
18. where the Publication Box obscures any fixed regulatory or informational sign.

17.46.040 Co-located Publication Boxes.

A. A Person may install a Co-located Publication Box, at the Person's own expense, in compliance with all of the following conditions:

1. Placement of the Co-located Publication Box complies with all sections of this Chapter and all required permits have been obtained (per TRN-8.08);
2. The proposed Co-located Publication Box provides sufficient compartments for distribution of all Publications being distributed within 175 feet of the proposed location for the Co-located Publication Box as of the date of installation of the Co-located Publication Box; and

3. The Co-located Publication Box permittee agrees in writing as a condition of issuance of a permit to be responsible for ensuring compliance with the maintenance requirements of this Chapter for the Co-Located Publication Box.

4. A person who installs a Co-located Publication Box may not charge a Distributor for distribution of its Publication from the Co-located Publication Box.

B. Once a Co-located Publication Box has been installed, no freestanding Publication Boxes may be placed within 175 feet of the Co-located Publication Box. If the Co-located Publication Box is full, a Distributor who wishes to distribute a Publication at that location may do so by installing, at its own expense, an additional identical Co-located Publication Box immediately adjacent to the existing Co-located Publication Box. The additional Co-located Publication Box must comply with all other requirements of this chapter for placement of Co-located Publication Box. Once installed the maintenance and management will be the responsibility of the permittee of the existing Co-located Publication Box.

C. No permittee of a Co-located Publication Box ~~shall~~may accept anything of value for the display of any speech or image on the Co-located Publication Box. The Distributor may display the publication within the window to which that box is assigned in the Co-located Publication Box. The Distributor may also display any speech or image of its choice, limited to no more than 4 inches in height, on each of the following: the front, side, back and door of the Co-located Publication Box. No other speech or image may be displayed with the exception of the notice required by, Subsection 17.46.050 B.

D. Co-located Publication Boxes ~~must~~shall be black in color and the design ~~must~~shall be similar to existing Co-located Publication Boxes installed around Pioneer Courthouse Square. Co-located Publication Boxes within design districts may be subject to Design Review and through that process may be allowed to vary in standard color or other elements.

17.46.050 Maintenance Requirements.

A. Each Publication Box charging a fee ~~must~~shall be equipped with a coin return mechanism to permit the person using the machine to secure an immediate refund in the event she/he is unable to receive the Publication paid for. The coin return mechanisms ~~must~~shall be maintained in good working order. (This requirement d~~D~~oes not apply to Publication Boxes used for distributing free Publications.)

B. Each Publication Box ~~must~~shall have affixed to it in a readily visible place so as to be seen by anyone using the Publication Box a notice setting forth the name and business address of the Distributor and the telephone number of a working telephone service to call to report a violating condition, a malfunction, or to secure a

refund in the event of a malfunction of the coin return mechanism. In a Co-located Publication Box the required information ~~shall be~~ for the permittee of the box.

C. Each Publication Box ~~must~~shall be sufficiently weighted, or attached to a sign post, street light or signal/utility pole as per, Subsection 17.46.030 B., or to another Publication Box to provide stability and safety.

D. Publication Boxes may not have free-flying materials attached to them, such as balloons, windsocks, papers, etc.

E. Each Publication Box ~~must~~shall be maintained in a neat and clean condition and in good repair at all times. Specifically, each Publication Box ~~must~~shall be serviced and maintained so that:

1. it is reasonably free of dirt and grease;
2. it is reasonably free of chipped, faded, peeling and cracked paint;
3. it is reasonably free of rust and corrosion;
4. it is reasonably free of graffiti, litter and other debris;
5. clear plastic or glass parts are unbroken and reasonably free of cracks, dents, blemishes and discoloration;
6. paper or cardboard parts or inserts are reasonably free of tears, peeling or fading;
7. structural parts are not broken or unduly misshapen.

17.46.060 Enforcement.

A. If a Publication Box (including a Co-located Publication Box) is found to be in violation of any section of this Chapter, an attempt will be made to contact the permittee of a Co-located Publication Box, or the Distributor of the Publication Box to provide notification of the violation. In the event the ~~e~~City is unable to contact the permittee or Distributor after 15 days of noted violation, the Publication Box (including a Co-located Publication Box) will be deemed Abandoned.

B. Violations that are not corrected within 15 days of notification will be subject to fine per the Transportation Fee Schedule (per TRN-3.450).

C. Publication Boxes (including a Co-located Publication Boxes) with violations that go uncorrected for 30 days after notification, as well as Publication Boxes (including a Co-located Publication Boxes) that remain empty for a period of 30 consecutive days, ~~shall~~will be deemed Abandoned and may be removed by the City. The City will store all removed Publication Boxes (including a Co-located Publication Boxes) for 3 months, during which time the permittee of a Co-located Publication Box, or the

Distributor of the Publication Box may redeem them after paying any outstanding fines, penalties and storage fees. After 3 months, the City may auction, sell, or dispose of any Publication Boxes (including a Co-located Publication Boxes) that is not redeemed from storage.

17.46.070 Liability.

A. The Distributor of any Publication Box ~~shall be~~ is liable for any and all damages to any Person who is injured or otherwise suffers damages resulting from the placement of a Publication Box within the Right-of-Way, or by reason of the Distributor's failure to keep the Publication Box in safe condition and good repair. ~~Said Distributor(s) shall be~~ is liable to the City ~~of Portland~~ for any amounts ~~which that~~ may be paid or incurred by the City by reason of all claims, judgments or settlements, and for all reasonable costs of defense, including investigation costs and attorney fees, by reason of ~~said the~~ Distributor(s)' failure to satisfy the obligations imposed by the Charter and Portland City Code ~~of the City of Portland~~ to maintain and repair such Publication Box.

B. The adjacent property owner ~~shall is~~ not ~~be~~ liable for any damages to any Person who is injured or otherwise suffers damages resulting from the placement of a Publication Box directly adjacent to their property.

17.46.080 Appeal.

Any permittee of a Co-located Publication Box, or the Distributor of the Publication Box aggrieved by the City's determination may appeal that determination to the Code Hearings Officer as provided in Chapter 22.10 of this Code. Notwithstanding any other provisions of this Code, there ~~shall is be~~ a non-refundable fee of \$250 for any appeal pursuant to this Section. Such fee must accompany any such appeal and no such appeal ~~shall will~~ be considered filed or received until such fee is paid in full.

Chapter 17.48 Moving Buildings

17.48.010 Permit Required.

~~(Amended by Ordinance 140207, effective August 1, 1975.)~~

It is unlawful for any person to move any building or structure through any street or to occupy any portion of any street for the removal of any building or structure, without first obtaining a permit as provided in this Chapter and paying the fees elsewhere prescribed in Section 17.24.020.

17.48.020 Application and Fee Deposit.

~~(Amended by Ordinance 140207, effective August 1, 1975.)~~

Application for a permit for moving a building or structure ~~shall must~~ be in writing, ~~shall and~~ state the number of the lot and block upon which the building is located,

the size of the building, the number of the lot and block to which it is proposed to remove the same, the route proposed to be taken, the length of time required for moving, and the name of the owner of the building or structure. Each application ~~shall must~~ be accompanied by a fee as prescribed in Section 17.24.020. The application fee is nonrefundable and is in addition to the permit issuance fee, which ~~shall will~~ be collected prior to the issuance of the permit.

17.48.030 Moving Permit.

~~(Amended by Ordinance 140207, 173627, 180917, 182389, 182760, 184957, 184522, 185448, 186053 and 186900, effective January 1, 2015.)~~

A. When a building to be moved does not exceed three stories in height, the ~~Director of the Bureau of Transportation~~ City Administrator may issue a moving permit, fixing the route to be used for the move, ~~with the prior approval of the Traffic Engineer of the route,~~ and upon the terms as ~~he or she~~ the City Administrator may deem necessary. The Director of the Bureau of Transportation ~~shall will~~ keep a copy of the permit so issued.

B. When a building to be moved exceeds three stories in height, any permit for moving ~~shall must~~ be issued by the ~~Council Mayor by ordinance.~~ The ~~Ordinance shall permit will~~ set forth any conditions upon the moving ~~which that~~ may be deemed necessary and ~~which that~~ are not provided for in this Chapter, and ~~shall will~~ set forth the ~~City Administrator~~ Director of the Bureau of Transportation's estimate of the cost to the City of issuing the permit, investigating the application, and supervising the moving, to be paid by the applicant for permit as a part of the fee elsewhere prescribed in Section 17.24.020.

C. No moving permit ~~shall may~~ be issued until the applicant ~~shall has~~ ve filed with the Auditor an insurance policy or certificate of insurance and form of policy for public liability insurance naming as additional insured's the City, its officers, agents and employees, in the amounts of at least \$1,000,000 (one million dollars), or the maximum limits of the Oregon Tort Claims Act as subsequently amended, whichever is greater; the insurance ~~must shall~~ also contain a provision that it ~~shall is~~ not ~~be~~ cancelable during the term of the permit.

D. A moving permit ~~shall may~~ not be issued until the applicant has deposited with the Treasurer a sum sufficient, in the judgment of the ~~City Administrator~~ Director of the Bureau of Transportation, to cover the cost of repairing any and all damage or injury to street or streets, or ~~their~~ improvements, ~~therein~~ including street trees, ~~which that~~ may result from the moving operation, and also such sums as the Bureau of Transportation and Portland Fire & Rescue, and any other City bureau involved, may require to cover the cost of moving, repairing, restoring or replacing any wires, signals, trees or other properties or installations ~~which that~~ may be necessary in preparation for or in consequence of any moving operation. Upon completion of the moving operation, the ~~City Administrator bureau or bureaus which may have required such deposit and the Director of the Bureau of Transportation shall will~~ submit to the

Treasurer a statement of the costs of any operations, repairs or replacements occasioned by or as the result of the moving operation, and other information as the Treasurer may request, in order to reimburse the proper account from the money so deposited, and ~~shall will~~ authorize the Treasurer in writing to refund the remaining portion of such deposit, if any, to the depositor. If the cost exceeds the amount deposited, the depositor ~~shall must~~ promptly reimburse the affected bureau or bureaus for such additional cost.

17.48.040 Regulations.

~~(Amended by Ordinances 182760 and 184957, effective November 25, 2011.)~~

The moving of a building or structure under a moving permit ~~must shall~~ be continuous day-by-day during all the hours specified by the ~~City Administrator~~~~Director of the Bureau of Transportation~~ until completed, with the least possible obstruction to the streets occupied. It is unlawful for any person moving a building or structure under a moving permit to leave ~~said the~~ building or structure or any portion ~~thereof it~~ stationary in the street, road or highway area for a period in excess of 2 hours during the hours of the day specified by the ~~City Administrator~~~~Director of the Bureau of Transportation~~, unless an emergency exists by reason of unforeseen difficulties encountered in cutting wires, trees, or removing obstructions in the course of the route selected. Removal and pruning of trees ~~must shall~~ be conducted in accordance with the City Forester's requirements including the need to obtain tree permits. All movement in the street area must be completed within an elapsed time of 36 hours unless application is made for a longer period of time and permission ~~is~~ specifically granted ~~therefore by the~~ ~~City Administrator~~~~Director of the Bureau of Transportation~~ prior to the commencement of any movement; provided, however, that if any unforeseen difficulties are encountered and an extension of time ~~necessitated thereby~~ is requested from the ~~City Administrator~~~~Director of the Bureau of Transportation~~ prior to the expiration of 36 hours from the commencement of the moving operation, the ~~City Administrator~~~~Director of the Bureau of Transportation~~ may extend the 36 hour time by specific additional time as deemed necessary.

Red lights or other warning devices sufficient to warn and protect traffic ~~must shall~~ be displayed in conspicuous places at or on a building or structure being moved during the hours in which streetlights are lighted. The ~~City Administrator~~~~Director of the Bureau of Transportation~~ may require additional warning devices based on findings that the warning devices displayed by the mover are insufficient.

17.48.050 Cutting Wires in Moving Operation.

~~(Amended by Ordinances 182760 and 184957, effective November 25, 2011.)~~

When overhead wires in any street designated in a permit for moving a building or structure will interfere with the moving operation, the permittee ~~must shall~~ give to the owner of the wire, including the City when it is the owner, 48 hours notice of intent to have the wire temporarily removed. The permittee ~~must shall~~ pay in advance or

tender to the owner, other than the City, the amount estimated to be necessary to remove the wire and replace the same. When the City owns the wire, the cost of temporary removal and replacement ~~shall~~will be included in the requirement for deposit prerequisite to permit, as provided in this Chapter. If the permittee disputes the amount demanded by the owner as the advance or tender, the amount ~~shall~~will be determined by the ~~City Administrator~~Director of the Bureau of Transportation. The permittee of a moving permit ~~must~~shall pay the actual expense of removing and replacing the wire, and as soon as the actual expense can be determined the permittee ~~must~~shall immediately pay any deficit and the owner ~~must~~shall refund any surplus to ~~him or her~~the permittee. Upon receipt or tender of the amount estimated or the amount fixed by the ~~City Administrator~~Director of the Bureau of Transportation in case of dispute, the owner of the wire ~~must~~shall remove it in time to permit the passage of the building or structure without unnecessary delay.

Chapter 17.52 Trees

~~(Chapter replaced by Ordinance 186900, effective January 1, 2015.)~~

17.52.010 Relationship to Other City Regulations.

Specifications and responsibilities for maintenance of trees with regard to public improvements are found in Chapter 11.60 of Title 11, Trees.

17.52.020 Tree Tubs.

Any person desiring to place a tub or receptacle for a tree or shrub on top of the paved or hard surfaced portion of street area ~~shall~~must first apply to the ~~Director of the Bureau of Transportation~~City Administrator for a permit. The permit may be issued by the ~~City Administrator~~Director of the Bureau of Transportation under such safeguards and conditions as the ~~City Administrator~~Director of the Bureau of Transportation and the City Attorney may find necessary or appropriate to protect the public safety and to protect the City against claims of liability. The permit may be revoked by the ~~City Administrator~~Director of the Bureau of Transportation for any violation of conditions or terms of the permit; or for neglect of the plantings or abandonment of use. After revocation, it is unlawful for the permittee or permittee's successor in Title to the abutting property to allow the tub or receptacle to remain in street area.

Chapter 17.56 Public Utilities

17.56.005 Definitions.

~~(Added by Ordinance 184957, effective November 25, 2011.)~~

For the purposes of this Chapter, "public utility" includes any person that installs, constructs, reconstructs, repairs, alters or maintains facilities for the distribution,

transmission or collection of sewer, water, gas, petroleum products, steam, electricity, telecommunications, or other services, together with any associated wires, cables, poles, conduits, appliances or apparatus in, on, over, through or in any manner beneath the surface of the streets and that person currently possesses a franchise or privilege granted by the City of Portland or is a City bureau charged with providing such service to the public.

17.56.010 General Bond.

~~(Amended by Ordinance 173369, effective May 12, 1999.)~~

In cases where the City has granted or may ~~hereafter~~ grant revocable permits to a railway company or other public utility for the use of streets, alleys, or public places, the grantee, instead of filing a bond or bonds for the faithful performance of the conditions and obligations in any permit prescribed, may file with the ~~Ceity~~ Auditor its written undertaking in the penal sum of \$5,000, without sureties, duly executed by the company under its corporate seal, ~~whereby in which it shall will~~ undertake generally and agree to keep and perform the duties, obligations, and conditions of all revocable permits for the use of public streets, alleys, or public places then held or that may ~~thereafter~~ be granted to or held by it, and particularly that it will comply with all requirements ~~thereof~~ for paving, repairing, or otherwise improving streets and sidewalks and for the removal of its property and restoration of the portions of the streets, pavements, or sidewalks, according to the terms and conditions of the permits respectively.

17.56.020 Plans for Underground Construction by Franchise Holder.

~~(Amended by Ordinances 151100, 176555 and 184957, effective November 25, 2011.)~~

Any person conducting a business within the City under a City franchise or permit, giving to such person the right to construct underground conduits or to lay pipes underground, ~~shall must~~, before entering upon any street for the purpose of cutting into, digging trenches in, or opening any street preparatory to the construction of any conduit or to the laying of any pipes, wires, or cables, file with the Director of the Bureau of Transportation detailed plans and specifications of all the proposed construction work. Such plans ~~must shall~~ be drawn to a scale prescribed by the ~~City Administrator~~ Director of the Bureau of Transportation and such specifications ~~must shall~~ state the manner of construction and the kind of materials proposed to be used. If the plans and specifications are satisfactory to the City ~~Administrator~~ Engineer, the ~~City Administrator~~ Director of the Bureau of Transportation ~~shall may~~ issue a permit to the person filing them to construct the work. If the City ~~Administrator~~ Engineer does not approve the plans or specifications or orders changes made ~~thereinto them~~, the person submitting them ~~must shall~~ comply with the City ~~Administrator~~ Engineer's requirements and ~~must shall~~ file new plans and specifications ~~which that~~ are satisfactory to the City ~~Administrator~~ Engineer. If these are approved by ~~him or her~~ the City Administrator,

the person may then obtain a permit and proceed with the construction of the work. If in the performance of the work it becomes necessary to deviate from such plans and specifications, deviation ~~shall~~may not be made until first approved by the City ~~Administrator~~Engineer.

Upon completion of the construction for which a permit has been issued, a map showing the location at depths below the surface of the ground of all construction work done under the permit ~~must~~shall be filed with the Director of the Bureau of Transportation. If changes have been made after the permit is issued, these changes ~~must~~shall be shown in an easily distinguishable manner. The final map ~~must~~shall bear a statement to the effect that the work done under the permit is correctly shown, and ~~must~~shall be signed by an authorized representative of the company doing the work.

The provisions of this Section ~~shall~~ apply both to dedicated right-of-way and to proposed right-of-way in approved land divisions ~~that~~which will be dedicated to the public upon plat recording. Permits issued for underground construction in proposed right-of-way ~~shall~~ require acknowledgment that the permittee will hold the City ~~of Portland~~ harmless against any liability ~~that~~which may occur prior to dedication of the right-of-way, and further acknowledgment that the permittee assumes all risk of loss ~~that~~which may arise in the event the City or any other public agency subsequently requires changes in or additions to plans or refuses to approve all or any part of permittee's improvements. Permits ~~shall~~may be issued only after street improvement plans have been approved.

17.56.030 Monthly Payments by Utility Companies.

Public utility companies may pay once a month for permits issued under this Title, but such payments ~~must~~shall be made on or before the 15th day of each month following the month in which the permits were issued.

~~17.56.040 Permits in Certain Areas.~~

~~(Repealed by Ordinance 184957, effective November 25, 2011.)~~

17.56.050 Poles or Wires in Public Area.

It is unlawful for any person to erect any pole or to stretch wires or cables in, under or over any street, park, public way or public ground for any purpose whatsoever, unless a ~~City~~ permit or franchise ~~therefor~~for it has first been granted by the ~~Council~~City.

17.56.060 Relocation and Discontinuation of Facilities.

~~(Replaced by Ordinance 184957, effective November 25, 2011.)~~

A. Relocation of Facilities

1. The ~~Director of the Bureau of Transportation~~City Administrator may direct any person owning, operating, or managing any public utility in the City and using facilities located in public right-of-way, to temporarily or permanently remove, relocate, change or alter the position of facilities installed by that person or that person's predecessor within the public rights-of-way whenever required. Except in the case of an emergency or as otherwise agreed to by the ~~City Administrator~~Director of the Bureau of Transportation, the temporary or permanent removal, relocation, change or alteration of the position of facilities must be completed within the timeframe dictated by the written relocation demand letter issued by the City Administrator~~30 days following written notice from the Director of the Bureau of Transportation~~. A person may request additional time to complete the removal or relocation, which ~~shall~~will not be unreasonably denied. The City may issue such notice when the City has determined that such removal, relocation, change, or alteration is reasonably necessary for:

- a. The construction, repair, maintenance or installation of any City improvement or other public improvement in or upon the public rights-of-way, whether a public work by the City or its contractor or the construction, repair, maintenance or installation of a public improvement pursuant to the requirements of the City's development code;
- b. The operations of the City or any governmental entity in or upon the public rights-of-way for governmental purposes; or
- c. When required by the public interest, as determined by the ~~City Administrator~~Director of the Bureau of Transportation.

2. Before commencing removal or relocation, the applicant ~~must~~shall obtain a permit as required by Title 17.24.

3. The relocation or removal of utility facilities ~~shall~~will be at no expense or charge to the City.

4. Should the applicant fail to remove or relocate the facility in accordance with notice from the ~~City Administrator~~Director of the Bureau of Transportation, the ~~City Administrator~~Director of the Bureau of Transportation may declare the facility a nuisance. The ~~City Administrator~~Director of the Bureau of Transportation may enforce the removal or relocation by compliance order, stop work order, abatement proceedings, or civil action as authorized by law. For any removal or relocation enforced by the City, the Director of the Bureau of Transportation ~~shall~~will keep a complete account of all related costs and expenses incurred by the City. The ~~City Administrator~~Director of the Bureau of Transportation ~~shall~~will provide written notice to the person seeking payment of the City's costs and expenses. If the person fails, neglects, or refuses to pay all of the City's costs and expenses,

~~upon written approval of the Commissioner in Charge~~City Administrator, the Director may have the City Attorney institute legal proceedings in the name of the City to collect any unpaid removal or relocation costs or expenses. In the event that it is necessary for any action or proceeding is commenced or if it becomes necessary for the City to commence an action or proceeding in a court of competent jurisdiction for removal or relocation or to recover removal or relocation costs, the City ~~shall may be~~ seek to recover all available statutory costs and disbursements.

5. If removal or relocation is necessary due to a public improvement under a contract entered into between the City and an independent contractor and the failure to remove or relocate within the time specified results in payment to the contractor of any claim for extra compensation for any work or delay under said contract, the applicant ~~shall will~~ be liable for payment of the amount paid to the contractor as a direct result of the failure to comply with the time requirements of the City.

B. Discontinuation of Facilities. If a Person intends to discontinue using facilities of its system within all or part of a particular portion of the streets and does not intend to use said facilities again, the Person ~~must shall~~ submit to the City Administrator~~Director of the Bureau of Transportation~~ for the City Administrator~~Director of the Bureau of Transportation~~'s approval a completed application describing the structures or other facilities and the date on, and the method by which the Person will remove such facilities.

17.56.070 Placement of Overhead Wires.

Any public utility erecting, placing, or maintaining in the City any overhead wire or cable ~~must shall~~ affix or attach the wire or cable in compliance with State regulations, in conformity with the best engineering practice, and at a height and in a manner to protect the public safety.

17.56.080 Service Shutoff Outside Premises.

When so required by the occupant of premises, or if the premises are unoccupied, whenever requested by the owner, a public utility ~~shall may~~ shut off or disconnect its service facilities outside and away from the building or structure previously served, unless the facilities are an integral part of the building or structure.

17.56.090 Control of Electrical Currents.

It is unlawful for any person using or employing electrical current to fail or neglect to provide and put in use such means, appliances and apparatus as will, so far as practicable, control and effectually contain the current or energy in isolated paths and on their own wires, conductors or structures, so as to prevent damage or injury through discharge to ground to City pipes and structures and the pipes or structures of others. It is unlawful for any person using or employing electrical current to fail to take such measures as are necessary and appropriate to prevent contribution to

injury or damage to pipes or structures belonging to the City or others. Conviction for violation of this Section ~~shall will~~ not take away or abridge the right of the City or any other person to damages for injury to its pipes or other structures resulting from escape of electrical current.

~~17.56.100 Preservation of Cobblestone.~~

~~(Repealed by Ordinance 184957, effective November 25, 2011.)~~

Chapter 17.60 Underground Wiring Districts

17.60.010 Designated.

~~(Amended by Ordinances 162574 and 184957, effective November 25, 2011.)~~

The following described districts designated as "District A," "District B," "District C," "District D," "District E" and "District F" mean and include the following streets in the City:

District A: Beginning with the intersection of the south line of SW Madison Street with the east line of SW Front Avenue, running thence westerly, along said south line of SW Madison Street, to its intersection with the west line of SW Broadway; thence northerly along said west line of SW Broadway, to its intersection with the south line of SW Yamhill Street; thence westerly along said south line of SW Yamhill Street to its intersection with the west line of SW 14th Avenue; thence northerly, along said west line of SW 14th Avenue to its intersection with the north line of West Burnside Street; thence easterly, along said north line of West Burnside Street to its intersection with the west line of NW Broadway; thence northerly, along said west line of NW Broadway to its intersection with the north line of NW Glisan Street; thence easterly along said north line of NW Glisan Street to its intersection with the east line of NW Front Avenue; thence southerly, along said east line of NW and SW Front Avenue to the place of beginning.

District B: East Burnside Street, SE Morrison Street and SE Hawthorne Boulevard, from the east line of SE and NE 3rd Avenue to the west line of SE and NE 6th Avenue; and also those portions of other streets parallel ~~thereto~~ it lying between the south line of NE Couch Street and the south line of SE Hawthorne Boulevard ~~which that~~ are included between a line drawn 100 feet east of and parallel to the east line of SE and NE Grand Avenue; and a line drawn 100 feet west of and parallel to the west line of SE and NE Grand Avenue; and SE Grand Avenue, from the south line of NE Couch Street to the south line of SE Hawthorne Boulevard; it being provided, however, that any crossings over streets in this District ~~thatwhich~~ were installed before January 1, 1950 ~~shall will~~ be permitted to remain; and it being further provided that additional machine-turned wooden street light poles and overhead wires for street lighting ~~shall will~~ be permitted in said District, if approved by the City Administrator~~Director of the Bureau of Transportation~~.

District C: NE Martin Luther King, Jr. Boulevard (NE Union Avenue) from 100 feet north of the north line of NE Davis Street to the south line of NE Going Street, it being provided however, that any street light poles and traffic signal poles and any crossings over NE Martin Luther King, Jr. Boulevard (NE Union Avenue) ~~thatwhich~~ were installed before January 1, 1950 ~~shall~~will be permitted to remain; and it being further provided that additional machine-turned wooden street light poles and overhead wires for street lighting ~~shall~~will be permitted in said District, if approved by the ~~City Administrator~~Director of the Bureau of Transportation.

District D: Beginning with the intersection of the center line of SW 4th Avenue and the north line of SW Market Street, running thence easterly along said north line of SW Market Street to its intersection with the center line of SW Harbor Drive; thence southerly along said center line of SW Harbor Drive to its intersection with the south line of SW Arthur Street; thence westerly along said south line of SW Arthur Street to its intersection with the center line of SW Barbur Boulevard; thence northerly along said center line of SW Barbur Boulevard and along the center line of SW 4th Avenue to the place of beginning.

District E: NE Airport Way lying between the following described Line 1 and Line 2. Line 1: Beginning at the most northerly corner of Tax Lot (2) of Lots 1 and 2, Block 112, Parkrose, thence running northeasterly in a straight line to a point on the westerly line of NE 112th Avenue, said point being the most westerly point in a common line between the I-205 Freeway right-of-way and NE 112th Avenue, and located southerly of the intersection of NE 112th Avenue with NE Marine Drive. Line 2: The common boundary line between the City of Portland and the City of Gresham approximately 826.0 feet north of the north line of NE Sandy Boulevard at its intersection with NE 181st Avenue; also public use easements 10.0 feet in width granted to the City of Portland and adjacent to either side of NE Airport Way as described above, it being provided, however that any crossings over NE Airport Way and the said 10.0 foot wide public use easements ~~thatwhich~~ were installed prior to November 1, 1988 ~~shall~~will be exempted from this District.

District F: All that portion of the SW Gibbs Street right of way between SW Bond Street and the east line of SW Barbur Boulevard and all that portion of the Pacific Highway (I-5) right of way and S.W. Naito Parkway (S.W. Front Avenue) right of way included in a strip of land 60.00 feet in width, 30.00 feet on each side of the center line of S.W. Gibbs Street as such streets were platted on CARUTHERS ADDITION TO THE CITY OF PORTLAND, Multnomah County, Oregon. Overhead lines located on SW Corbett Street running perpendicular to SW Gibbs Street are exempt from this requirement.

17.60.020 Overhead Wires Prohibited.

~~(Amended by Ordinances 162574 and 184957, effective November 25, 2011.)~~

A. It is unlawful for any person to erect, construct, or maintain on or over the surface of any street or public use easement designated in Section 17.60.010 within an

underground wiring district, any wires, poles, cables, appliances, or apparatus of any kind, on, through or by means of which electrical current or communications are transmitted or used.

B. Whenever all existing utility facilities are located underground within a public right-of-way, a person with permission to occupy the same public right-of-way must also locate its new facilities underground.

17.60.030 Application for Permit.

~~(Amended by Ordinances 159491 and 184957, effective November 25, 2011.)~~

Any person owning a franchise or privilege to erect, construct, or maintain wires, cables, poles, vaults, manholes and other structures, appliances or apparatus on, over, or by means of which electric current is transmitted or used for any purpose in any portion of an underground wiring district, who desires to install, construct, reconstruct, repair, alter or maintain the same ~~shall~~must file with the ~~City Administrator~~Director of the Bureau of Transportation an application for a permit to install or maintain the facilities in trenches, conduits, structures or subways beneath the surface of the streets or parts ~~thereof~~of them within the underground district as required. The application ~~must~~shall be accompanied by the agreement of the applicant promptly to repave and repair any of the streets or portions ~~thereof~~which them that are disturbed or undermined by the applicant as the result of exercise of the permit, if granted, the repaving and repair to be made in compliance with the provisions of this Title.

17.60.040 Designation of Space.

~~(Amended by Ordinances 159491, 162574 and 184957, effective November 25, 2011.)~~

A. Upon the filing of an application under Section 17.60.030, the ~~City Administrator~~Director of the Bureau of Transportation will designate the portion of space and location within the street area or public use easement designated in Section 17.60.010 to be used by the applicant. No part or parts of street area ~~shall~~may be used except as designated by the ~~City Administrator~~Director of the Bureau of Transportation.

B. No facilities ~~shall~~may be constructed to prevent the City from constructing sewers, grading, paving, repairing and/or altering any Street; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work ~~must~~shall be done, so as not to injure or prevent the unrestricted use and operation of the Permittee's system. However, if any portion of the Permittee's system interferes with the construction or repair of any street or public improvement, including construction, repair or removal of a sewer or water main, the City may direct the Permittee to relocate as provided in Section 17.56.060.

17.60.050 Filing Plans and Specifications.

~~(Amended by Ordinances 159491 and 184957, effective November 25, 2011.)~~

The applicant for permit ~~must~~shall file with the ~~Director of the Bureau of Transportation City Administrator~~ plans and specifications for an underground system for conduction of current or energy in trenches, conduits or subways for wires, cables, and appliances including the necessary vaults, manholes and service boxes, and, in addition, ~~thereto must~~shall file a map showing the general route and location of the trenches, conduits or subways.

17.60.060 Issuance of Permit.

~~(Amended by Ordinances 159491, 162574 and 184957, effective November 25, 2011.)~~

Subject to payment of the applicable fees prescribed in Chapter 7.12, if the City ~~Engineer Administrator~~ finds that the application and the plans, specifications and route map filed are satisfactory, the ~~Director of the Bureau of Transportation City Administrator~~ may approve the same and issue to the applicant a permit to enter upon the designated streets, public use easements designated in Section 17.60.010, or parts ~~thereof~~ them in an underground wiring district, to make such excavation ~~therein, them~~ as may be necessary to construct conduits or subways, to lay wires, cables and appliances ~~therein them~~, and to build vaults, manholes or service boxes underground within the space ~~theretofore~~ designated by the City. It is unlawful to make any excavation in any street or public use easement designated in Section 17.60.010 to install underground facilities, without a permit from the ~~City Administrator~~ Director of the Bureau of Transportation and paying the fees set forth in Section 17.24.020. All excavation work and restoration pursuant to the permit ~~must~~shall be under the general supervision of the ~~City Administrator~~ Director of the Bureau of Transportation and ~~must~~shall be made only after notice to the ~~City Administrator~~ Director of the Bureau of Transportation.

17.60.070 Emergency Repair.

~~(Repealed by Ordinance 184957, effective November 25, 2011.)~~

17.60.080 Restoration of Streets and Public Use Easements.

~~(Amended by Ordinances 162574 and 184957, effective November 25, 2011.)~~

Upon the installation and completion of any underground system of wires and appliances, the person installing ~~the same it~~ must~~shall~~ restore the surface of all pavements, improvements, landscaping and foundations ~~thereof which that~~ were disturbed or undermined, in as good order and condition as they were prior to the installation, in accordance with the plans and specifications and as directed by and to the satisfaction of the ~~City Administrator~~ Director of the Bureau of Transportation.

17.60.090 Use of Sidewalk Space and Building Fronts.

~~(Amended by Ordinance 184957, effective November 25, 2011.)~~

Any person owning or operating underground wires, conduits, or subways in compliance with this Chapter may connect the same with the side lines of the street, if approved by the ~~City Administrator~~Director of the Bureau of Transportation, and to that end, may use the space under the streets and sidewalks as may be necessary or convenient, and may also have access to all area-ways under sidewalks, and may place and maintain such wires, cables and appliances in proper conduits in and through such area-ways or spaces. If wires or cables are run up the sides or in front of any building, such wires or cables ~~must~~shall be placed in proper enclosures as are required by the relevant state and local regulations governing the placement of such wires or cables to prevent danger to life or property. If there are no relevant regulations, the ~~Director of the Bureau of Transportation~~City Administrator may establish such requirements as ~~he or she~~the City Administrator determines necessary to prevent danger to life or property. No wire, cable, or the supports ~~therefor~~ them shall may cross any window or opening in any building.

17.60.100 Location Maps.

~~(Amended by Ordinances 162574 and 184957, effective November 25, 2011.)~~

Every person to whom a permit has been granted pursuant to this Chapter ~~must~~shall, upon completion of the installation of underground wires, cables, and appliances, file with the Director of the Bureau of Transportation maps, in a scale and format determined by the ~~City Administrator~~Director of the Bureau of Transportation, showing the location of the conduits or subways, wires, cables, vaults, manholes, and service boxes under said streets or within said public use easements designated in Section 17.60.010 or parts ~~thereof~~ them. The Director of the Bureau of Transportation ~~shall will~~ maintain a record ~~thereof~~ it.

17.60.110 Exemptions.

~~(Amended by Ordinances 155775, 173627, 182389, 184957, 189629 and 191464, effective September 27, 2023.)~~

The provisions of this Chapter with respect to underground construction or installation ~~shall do~~ not apply to the following:

A. Wires, poles, and appliances for lighting the streets of the City under contract with the City, or under private contract, connected with wires or cables in underground conduits or subways of a public utility; but all wires for street lighting above the surface of the streets ~~must~~shall be placed inside or on the outside of poles used in connection with such street lighting as directed by the City and ~~must~~shall be connected underground from the foot or base of the respective poles directly with the nearest wires or cables placed in such conduits or subways; provided that wires for street lighting if put on the outside of poles ~~must~~shall be placed in proper enclosures so as not to ~~be dangerous to~~endanger life or property,

excepting, however, wires above the ground connecting the poles and their ~~wires thereof~~ with the light fixture on the pole.

B. Traffic signal installations made and maintained by the City. When deemed appropriate by the City ~~Administrator Traffic Engineer,~~ agreements may be made with private property owners permitting attachment of traffic signal installations to privately owned buildings, and the ~~Commissioner In Charge of the Bureau of Transportation~~ City Administrator is authorized to enter into or to approve agreements relating ~~thereto them,~~ such agreements having first been approved as to form by the City Attorney. The agreements made prior to the effective date of this Chapter passage hereof are ~~hereby~~ ratified and confirmed.

C. Wires, cables, and appliances for electric signs, advertisements, and decorative lighting, connected with wires or cables in underground conduits or subways of a public utility; provided that all such wires for electric signs, advertisements, and decorative lighting ~~mustshall~~ be carried from or connected with the building, and if such wires are placed on the sides or front of any such building, they ~~mustshall~~ be placed in proper enclosures so as not to be dangerous to life or property, and the wires ~~mustshall~~ be connected underground from the foundations or basement of the respective buildings directly with the nearest wires or cables placed in such conduits or subways. No wire for electric signs, advertisements, or decorative lighting ~~shall may~~ cross any street above ground.

D. Wires, cables, and appliances for telegraph, telephone, district telegraph, and fire alarm systems connected with wires or cables in underground conduits or subways of a public utility or a City system; provided that all wires for telegraph, telephone, district telegraph, and fire alarm systems above the surface of streets ~~mustshall~~ be placed on the sides or front of buildings in proper enclosures as the ~~City Administrator~~ Director of the Bureau of Transportation may find necessary to prevent danger to life or property, and these wires ~~mustshall~~ be connected underground from the foundations or basement of the buildings directly with the nearest wires or cables in conduits or subways.

E. Wires, poles and attachment hardware for transit electrification systems; provided that all wires or hardware for transit electrification systems above the surface streets ~~mustshall~~ be placed as the ~~City Administrator~~ Director of the Bureau of Transportation may find necessary to prevent danger to life or property within the requirements of the National Electrical Safety Code (ANSI C 2), and that if required, these wires ~~mustshall~~ be connected to underground wires from the foot or base of the respective poles.

F. Appliances or appurtenances on, through, or by means of which telecommunications data is wirelessly collected or transmitted, as defined by ~~the~~ City of Portland's Transportation Administrative Rules. Attachments to infrastructure not owned and maintained by the City must adhere to 3rd party attachment rules as laid out in ~~the City's of Portland~~ Transportation Administrative Rules.

G. Wires, cables, and appliances for decorative lighting, electric heating devices, and other approved electrical uses associated with permitted outdoor dining installations, being in compliance with the requirements described in Administrative Rule TRN-10.04, provided that all such wires ~~must~~shall be carried from or connected with an adjacent building, and if such wires are placed on the sides or front of any such building, they ~~must~~shall be placed in proper enclosures so as not to be dangerous to life or property. No wire ~~shall~~may cross or impede any travel lane unless approved by the City ~~Administrator~~Traffic Engineer.

17.60.120 Joint Use of Conduits.

Nothing in this Chapter ~~shall~~may be construed to prevent or impair any agreement between or among persons affected by this Chapter designed to provide for joint ownership, control, or use of conduits or subways.

~~17.60.130 Special Control Districts.~~

~~(Repealed by Ordinance 184957, effective November 25, 2011.)~~

~~17.60.140 Conversion to Underground Wiring Within Control Districts.~~

~~(Repealed by Ordinance 184957, effective November 25, 2011.)~~

~~17.60.150 Service Entrance Requirements in Control Districts.~~

~~(Repealed by Ordinance 184957, effective November 25, 2011.)~~

Chapter 17.64 Protection of City Owned Telecommunications Line and Equipment, Street Lighting and Traffic Signal Systems

~~(Chapter amended by Ordinance 173369, effective May 12, 1999.)~~

17.64.010 Interference With.

~~(Amended by Ordinance 173369, effective May 12, 1999.)~~

It is unlawful for any person to interfere with, obstruct, change, injure, impair, or remove any pole, post, wire, cable, conduit, box, gong, or other City ~~of Portland -~~ owned telecommunications lines and equipment, street lighting, or traffic signal systems, except as ~~hereinafter~~ provided by this Chapter.

17.64.020 Permit for Interference.

~~(Amended by Ordinances 173369, 173627, 181483 and 182389, effective January 2, 2009.)~~

It is unlawful for any person to remove, temporarily or otherwise, or to change any part of the wire or cable or any pole or post or any facility belonging to or appertaining to City-of-Portland-owned telecommunications lines, and equipment, street lighting, or traffic signal systems of the City without first obtaining a written permit ~~therefor to do so~~. A person finding it necessary in the pursuit of a lawful purpose to remove, interfere with, or disturb any portion of City-of-Portland-owned telecommunications lines and equipment, street lighting, or traffic signal systems ~~shall~~ must give, or cause to be given, to the ~~Director of Communications and Networks, OMF Business Operations Division or City Administrator, for street lighting issues, to the Bureau of Transportation,~~ a notice in writing, at least 2 hours before it ~~shall is be~~ necessary to interfere with or disturb any portion of such systems, stating the locality at which, and in the manner in which it ~~shall will~~ be necessary to remove, interfere with, or disturb the system involved. No notice ~~shall may~~ be given between the hours of 4 p.m. and 8 a.m. The City may issue a permit for the interference if they find that the interference is necessary, and may restrict the work or the time of the interference. The permit ~~shall will~~ specify fully the change required and any restrictions ~~thereon~~. Any person aggrieved by the decision may appeal such decision to the ~~City Council by filing notice thereof in writing with the City Auditor City Administrator.~~ No permit ~~shall will~~ be required for emergency repairs by a public utility necessitating interference with City system, equipment or apparatus, but the ~~City as its respective jurisdictions may appear, shall be~~ public utility will notify the ~~City~~ as soon as possible and the public utility ~~must shall~~ make any further changes required by the City.

17.64.030 Supervision and Expense of Work.

All work done by or for a permittee under this Chapter ~~must shall~~ be performed under the supervision of and completed to the satisfaction of the permitting official. All work done under a permit issued pursuant to this Chapter ~~must shall~~ be at the sole expense of the permittee, and if the City is requested to do such work the fees applicable ~~shall will~~ be as prescribed in the finance regulations.

17.64.040 Use of City Poles or Posts.

~~(Amended by Ordinance 173369, effective May 12, 1999.)~~

A. It is unlawful for any person to attach any animal, or to affix or attach any bill, sign, advertisement of any kind, or any contrivance or device of any kind or nature other than City official notices, to any pole, post, wire, cable, fixture or equipment of City-of-Portland-owned telecommunications lines and equipment, street lighting, or traffic signal systems, except as authorized by the City.

B. Public utilities operating in the City under franchise or permit may attach their utility wires or cables to poles or posts of City-of-Portland-owned telecommunications lines and equipment, street lighting, or traffic signal systems, to the extent specifically permitted by the City, in such locations as the City may specifically designate, in consideration of reciprocal privileges extended to the City

when necessary or convenient for the City to use the poles of the utility in maintaining the City systems.

Chapter 17.68 Street Lights

17.68.010 Injuring or Destroying.

~~(Amended by Ordinances 153667 and 182760, effective June 5, 2009.)~~

It is unlawful for any person to cut, break, injure, destroy or deface any pole, post, standard, tower, lamp, wire, cable, conduit, fixture, appliance or appurtenance erected, constructed or used for the public lighting or the City, whether owned by the City or by any public utility contracting with the City for public lighting. Any person injuring or destroying street lighting facilities mustshall repair and/or replace them in accordance with current design standards and the approval of the Bureau of Transportation. All costs mustshall be paid by the person that injures or destroys the street lighting facilities.

17.68.020 Private Street Lighting.

~~(Amended by Ordinances 140207, 153667, 173627 and 182389, effective January 2, 2009.)~~

A. It is unlawful for any person to erect or maintain any lamp post, standard, or fixed light in or upon any street or public place except by the authority of written permit issued by the Commissioner In Charge of the Bureau of Transportation City Administrator and in compliance with the provisions and requirements of this Section and paying the fee as prescribed in Section 17.24.020.

B. Any person desiring a permit to erect and maintain a lamppost, standard or fixed light on any street or public place may make written application to the City Administrator~~Commissioner In Charge of the Bureau of Transportation~~. The application mustshall state the exact location of such post or light, the name of the street and the number of the building, the number or other designation of the lot and block or parcel of land in front of which the post, standard or light is to be erected and maintained, and complete specifications of the lamp post, standard or light the applicant proposes.

C. Private street lights mustshall be separated by not less than 40 feet on the same side of any street unless a lesser distance is approved by the City Administrator~~Bureau of Transportation and by the City Engineer~~ because of particular design and environmental requirements. The height above the street grade and the exact location must be approved by the City Administrator~~Bureau of Transportation and by the City Engineer~~ before issue of the permit.

D. Private lighting will be in addition to, not in lieu of, publicly owned lighting on the right-of-way. This condition is necessary in order to guarantee that the right-of-way is

lit to a level sufficient to maintain public safety, and that there be no interruption in the service due to absence, cutbacks, or other circumstances effecting the permittee.

E. All private lamp posts, standards and lights ~~must~~shall at all times be kept in good repair and working order at the expense of the permittee.

F. A private street light permit issued under this Section ~~shall be revocable~~may be revoked for any of the following grounds:

1. Interference with a projected local or public improvement or
2. Failure to repair or properly maintain the light post or standard or light within 10 days after notice so to do by the ~~City Administrator~~Commissioner In Charge of the Bureau of Transportation or by the Bureau of Police.

G. Within 30 days after revocation of a private street light permit, the owner or person responsible for maintaining it ~~must~~shall remove the light and all appurtenances. Failure so to do ~~shall will~~ be a violation of this Title. The ~~City Administrator~~City Engineer or Director of the Bureau of Transportation may authorize the removal of the private street light if not removed within the said 30 days, and the cost of removal ~~shall may be recovered~~be recoverable from the owner or person responsible for maintaining the same in a civil action.

17.68.030 Design Requirements for Special Street Lighting Districts.

~~(Amended by Ordinances 153667, 155955, 173627 and 182389, effective January 2, 2009.)~~

A. All street lights within the City ~~of Portland shall~~must be a standard overhead fixture except in areas where it is determined by the ~~City Administrator~~Commissioner In Charge of the Bureau of Transportation that specialty lighting would substantially enhance a unique characteristic of the district.

B. Design, location, plans, and specifications for a special street lighting system to be installed or altered as a local improvement, ~~must~~shall be first approved by the Bureau of Transportation.

C. Establishing the source of funding necessary for the acquisition and installation of specialty lighting is the responsibility of the person(s) requesting the special lighting district to be established or altered and must be approved by the lighting manager.

D. When a specialty lighting system needs major refurbishing or replacement, the City will pay up to 50 percent of the cost of replacing City owned specialty light fixtures with the same style fixture when:

1. The lights are part of an historical structure that is included on the National Register of Historic Places and designated as an Oregon Historic Landmark

and a Local Landmark, and removal or changes in the lighting would jeopardize the structure's historical status, or

2. The light fixtures themselves are included on the National Register of Historic Places and designated as an Oregon Historic Landmark and a Local Landmark.

In other cases the City will pay for replacing the specialty light fixtures with a similar but readily available fixture.

17.68.040 Requirements for Lights on New or Reconstructed Streets.

~~(Added by Ordinance 153667; amended by Ordinance 182760, effective June 5, 2009.)~~

A. All new or reconstructed streets in the City associated with either privately or publicly funded projects must be provided with street lights corresponding to City lighting standards.

B. Design, plans, and specifications for streetlights to be installed or altered ~~must~~shall be first approved by the Bureau of Transportation.

C. The full cost of providing the street lighting improvements ~~must~~shall be paid by the permittee or funding source used for the street construction costs.

17.68.050 Street Light Removal and Relocation.

~~(Added by Ordinance 153667, effective September 12, 1982.)~~

A. All costs associated with the removal of streetlights on a street being vacated ~~must~~shall be paid by the person petitioning for the vacation.

B. All costs associated with the removal or relocation of street light facilities to accommodate work in accordance with a public improvement permit ~~must~~shall be paid by the permittee.

C. All costs for relocation of streetlights to complete work in local improvement districts ~~shall~~will be assessed as part of the project.

Chapter 17.76 Fuel Tanks

17.76.010 Permit Issuance.

~~(Amended by Ordinance 140207, effective August 1, 1975.)~~

Whenever, in the opinion of the ~~Commissioner In Charge of Public Works, City Administrator and the City Engineer~~, the installation of a fuel tank in the street area ~~will~~th not interfere with the present use or with any contemplated plans for the early

use of any street, a permit may be granted by the City ~~Administrator~~Engineer if ~~approved by the Commissioner of Public Works~~. The permit ~~shall~~may then be issued to the owner or occupant of the lot or tract adjacent to the street to be occupied by the fuel tank, upon payment of a fee as prescribed in Section 17.24.020.

17.76.020 Conditions.

The applicant for fuel tank installation in the street area ~~shall~~must sign an application for permit in which ~~he~~the applicant agrees to accept the revocable permit subject to its terms and limitations, saving the City harmless from damages ~~for themselves and for anyone claiming under them both to himself and to all persons claiming or to claim therefor~~.

17.76.030 Form of Permit.

~~(Amended by Ordinance 185397, effective July 6, 2012.)~~

The permit when issued ~~shall~~will be in substantially the following form:

REVOCABLE PERMIT

A revocable permit is hereby granted to (owner or occupant) of Lot., Block, Addition to install and maintain a tank for the storage of fuel oil in Street between Street and.....Street, being in that particular area lying between the curb line closest to the street centerline and the line of said street, abutting the above described property.

This permit is for the use of the street area only and ~~shall~~does not exempt the grantee from securing a permit from the Fire Marshal and complying with all requirements of the fire regulations, from taking out a permit from the City ~~Administrator~~Engineer to open the street, or from taking out licenses or permits required by any existing ordinances for any operation or construction carried on under the~~is~~ permit~~hereby granted~~.

This permit ~~granted hereunder~~ is revocable at any time at the pleasure of the ~~Council~~City Administrator. No expenditure of money~~thereunder~~, lapse of time, or other act or thing ~~shall~~may operate as an estoppel against the City or be held to give the grantee any vested or other right. Upon revocation, the grantee ~~shall~~must within 30 days discontinue the use of the tank and ~~shall~~must put the portion of the street affected by said tank in a condition as good as the adjacent portion of the street, all of which ~~shall~~must be done as directed by and to the satisfaction of the City ~~Administrator~~Engineer.

The grantee ~~herein~~ assumes full responsibility for all accidents or damage ~~which that~~ may occur in connection with the installation of the tank, and agrees to hold the City, ~~the City Engineer~~, and each and all the officers and employees of the City free and

harmless from any claims for damages to persons or property ~~which~~ that may be occasioned by the installation or its maintenance.

Chapter 17.80 Plats and Dedications

17.80.010 Approval by ~~Director of the Bureau of Transportation~~ the City Administrator.

~~(Amended by Ordinances 184046, 184957 and 191150, effective March 1, 2023.)~~

No new Subdivision plat of lands within ~~the City~~ Portland nor of any addition to ~~the same~~ Portland ~~shall~~ may be filed for record, nor ~~shall~~ may any street, alley, or other way be dedicated, until the plat or dedication has been submitted to the City Administrator ~~Director of the Bureau of Transportation~~ together with proof that all special assessments on the property included have been paid, or bonded under the provisions of this Title relative to local improvement assessments, and until the City Administrator ~~Director of the Bureau of Transportation~~ has endorsed the plat or dedication with ~~re~~ their certificate that the special assessments appear to have been paid, or payment has been provided for by bonding, and that the plat ~~of the lands or addition,~~ or dedication ~~of street or way~~ is of a suitable and convenient character. If a portion of property covered by a bonded assessment is sought to be subdivided or dedicated, the owner must first obtain an apportionment of the assessment lien in accordance with procedures set forth in the City Charter. Whenever any plat of any addition or ~~s~~ Subdivision of land within the corporate limits of the City is submitted to the City Administrator ~~Director of the Bureau of Transportation~~ by the Planning Commission, it is ~~his~~ the City Administrator's duty, before approving the plat, to require that all streets and alleys marked on ~~the said~~ plat be of adequate width and ~~he~~ the City Administrator may require the streets and alleys to be aligned with other streets and alleys or extensions ~~there~~ of them, abutting on the land to be platted.

17.80.020 Appeal.

~~(Amended by Ordinance 184957, effective November 25, 2011.)~~

Any person aggrieved by the refusal of the City Administrator ~~Director of the Bureau of Transportation~~ to certify to a plat or dedication in accordance with the provisions of Section 17.80.010 may appeal to the Council by filing a written notice of appeal with the City Auditor within 10 days after refusal, and the Council ~~shall~~ will hear and determine the matter with all convenient speed. If ~~the Council~~ it reverses ~~his~~ the City Administrator's decision, a certified copy of the resolution declaring the action ~~shall~~ will be attached to the plat or dedication in lieu of the certificate.

Chapter 17.82 Land Divisions

~~(Chapter added by Ordinance 176555, effective July 1, 2002).~~

17.82.010 Administration.

In addition to other regulations in this Title, land divisions must comply with the regulations herein.

17.82.020 Streets and Alleys.

~~(Amended by Ordinance 180917, effective May 26, 2007.)~~

Public streets and public alleys ~~shall~~must conform to the requirements of the City ~~Administrator~~ Engineer for elements, widths, intersection location, grades, curves, materials and construction. If necessary, construction and slope easements may be required.

Public Streets ~~must~~shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case ~~shall~~may an angle be less than 80 degrees unless the City ~~Administrator~~Engineer has approved a special intersection design.

As far as is practical, public streets other than minor streets ~~must~~shall be in alignment with existing streets by continuation of the center lines thereof. Staggered street alignment resulting in "T" intersections ~~must~~shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction.

Intersecting public alleys ~~must~~shall be avoided, and sharp changes in alley alignment ~~must~~shall be avoided, but, where necessary, the corners ~~must~~shall be widened sufficiently to permit safe vehicular movement. Dead-end public alleys ~~must~~shall be avoided, but, where unavoidable, turnaround facilities as determined by Portland Fire & Rescue and the City ~~Administrator~~Engineer ~~must~~shall be provided. Where a private street or private alley accesses the public right-of-way, the location and width of the access ~~shall~~must conform to 17.28.110 Driveways – Permits and Conditions.

Land divisions ~~must~~shall provide for the continuation or appropriate projection of existing arterial or collector streets in the surrounding area unless otherwise approved by the City ~~Administrator~~Engineer.

17.82.030 Partial Width Streets.

Partial width streets are public streets where right-of-way dedicated to the public is of insufficient width to accommodate all standard improvements for a full street. Partial width rights-of-way should be considered only when alignment or existing improvements make a full street impractical. Partial street dedications must be approved by the City ~~Administrator~~Engineer to ensure that the partial width called for accommodates access and provides adequate area for construction as needed.

17.82.040 Access Control Strips.

Access control strips, also known as reserve strips, are tracts of land conveyed to the City in fee. The strips are one foot in width and run for the length designated by the City [AdministratorEngineer](#). Access control strips may be required along public rights-of-way to restrict access until a street is fully developed. When new rights-of-way are being created, the access control strip will be located within the area intended to serve as right-of-way when the street is fully developed. Required access control strips must be shown on the land division plat. The City [AdministratorEngineer](#) may convert access control strips to public right-of-way when there is no longer a need for access control.

17.82.045 Driveway Access Plans.

~~(Added by Ordinance 182760, effective June 5, 2009.)~~

The City [AdministratorEngineer](#) may require that future driveway locations be identified on plans submitted with the land division. The City [AdministratorEngineer](#) may impose conditions of approval as appropriate and necessary regarding the number, configuration, and use of driveways necessary to ensure the safe and orderly flow of traffic, preserve on-street parking, preserve or establish street trees, maximize opportunities for vegetated stormwater management, reduce pedestrian conflicts, and enhance the pedestrian environment. The City [AdministratorEngineer](#) may require access easements to facilitate joint or shared use of a driveway consistent with Chapter 17.28.

17.82.050 Temporary Turnarounds.

The City [AdministratorEngineer](#) may require temporary turnarounds on public streets that are intended to be extended in the future. An easement for public use must be provided for the turnaround.

17.82.060 Public Utility Easements.

Easements for public utilities may be required by the City [AdministratorEngineer](#) adjacent to public rights-of-way. Where used, public utility easements ~~mustshall~~ be a minimum of 10 feet in width unless otherwise specified by the City [AdministratorEngineer](#). Public utility easements required by the City [AdministratorEngineer](#) ~~mustshall~~ be shown on the land division final plat.

17.82.070 Improvements in Land Divisions.

~~(Amended by Ordinances 176955, 182760 and 191736, effective July 1, 2024.)~~

The following improvements ~~mustshall~~ be installed at no cost to the public:

A. Streets: Public streets and public alleys within or adjacent to the land division ~~mustshall~~ be improved in accordance with the requirements of the City [AdministratorEngineer](#). Street inlets ~~mustshall~~ be installed and connected to storm sewers or other approved drainage facilities.

B. Public pedestrian and bicycle connections, within the Land division site and located in public right-of-way or easements dedicated to the City ~~must~~shall be improved in accordance with the requirements of the City ~~Administrator~~Engineer.

C. Storm sewers and drainageways: Storm sewers and drainageways ~~must~~shall connect the Land division site to an approved drainage system (as defined in 17.38.030) within or outside the Land division site as approved by the ~~Chief Engineer of the Bureau of Environmental Services or the Portland Permitting & Development~~City Administrator. Design of these systems ~~must~~shall comply with the Bureau of Environmental Services Stormwater Management Manual and the Bureau of Environmental Services Design Manual.

D. Sanitary sewers: Sanitary sewers ~~must~~shall be installed to serve the Land division by extension of existing City sewers. In the event that the ~~Chief Engineer of the Bureau of Environmental Services~~City Administrator determines that it is impractical to connect the Land division site to the City sewer system, the Land division may be approved with a private disposal system ~~which~~that has been approved by the State's Department of Environmental Quality and ~~the Portland Permitting & Development~~the City Administrator.

E. Electrical and other wires in the public right-of-way: Electrical distribution laterals and other primary and secondary lines and other wires serving the Land division, including but not limited to communication, street lighting and cable television, ~~must~~shall be placed underground. The developer ~~must~~shall make necessary arrangements with utility companies or other appropriate persons for the installation of underground lines and facilities. This ordinance ~~shall~~does not apply to temporary utility service facilities during construction, or to utility transmission lines operating at 50,000 volts or above.

F. Street lighting for public rights-of-way: Street lighting ~~must~~shall be provided as approved by the City ~~Administrator~~Engineer and ~~must~~shall include conduits, wiring, bases, poles, arms and fixtures as required by the City ~~Administrator~~Engineer to provide a complete system.

17.82.080 Improvement Procedures for Land Divisions.

Improvements installed by a land divider in the public right-of-way ~~must~~shall conform to the requirements of this Title and to improvement standards of the City ~~Administrator~~Engineer, and ~~must~~shall be installed according to the following procedure:

A. All public and local improvements to be placed in the public right-of-way ~~must~~shall meet the design requirements of the City ~~Administrator~~Engineer. In addition, if the improvement also includes storm and sanitary systems, the improvement ~~must~~shall also meet the design requirements of the ~~Chief Engineer of the Bureau of Environmental Services~~City Administrator.

B. All improvements to be placed in the public right-of-way are subject to approval of the City ~~Engineer-Administrator~~ through a street improvement permit, street use permit or other revocable permit ~~from the City Engineer~~.

C. Public and local improvement work ~~shall may~~ not commence until a permit has been issued by the City ~~AdministratorEngineer~~, and County Engineer, if work is to be undertaken that involves an area under county jurisdiction, such as a county road. If such work is discontinued for any reason, it ~~shall may~~ not be resumed until after the City ~~AdministratorEngineer~~ is notified.

D. Street improvements, that are public or local improvements, ~~or public sanitary and storm systems mustshall~~ be constructed under the inspection and to the satisfaction of the City ~~AdministratorEngineer~~. ~~Public sanitary and storm systems shall be constructed under the inspection and to the satisfaction of the Chief Engineer of the Bureau of Environmental Services.~~

E. Underground utilities, street lighting facilities, sanitary sewers, storm drains and water mains installed in a public roadway ~~mustshall~~ be constructed prior to the surfacing of the roadway. Stubs for service connections for underground utilities ~~mustshall~~ be placed according to the plans and specifications approved by the City ~~EngineerAdministrator~~. Stubs for public sewer and storm systems ~~mustshall~~ also be approved by the ~~Chief Engineer of the Bureau of Environmental ServicesCity Administrator~~.

17.82.090 Agreement for Construction of Public Improvements.

The land divider ~~mustshall~~ complete all required minor public street improvements (Sidewalk and curb work where engineering is not required to establish line or grade) prior to City ~~Engineer-Administrator~~ approval of the land division final plat unless otherwise allowed by the City ~~AdministratorEngineer~~. The land divider ~~mustshall~~ complete permit applications for other public improvements prior to City ~~Engineer-Administrator~~ approval of the land division final plat.

Chapter 17.84 Street Vacations

~~(Chapter amended by Ordinance 184957, effective November 25, 2011.)~~

17.84.005 Definitions.

~~(Added by Ordinance 190519, effective July 28, 2021.)~~

A street vacation is the termination of the public interest in a right-of-way; it extinguishes the easement for public travel that is represented by the right-of-way. In the typical case, city and county governments hold an easement for public travel on lands designated or used as roads, streets, and alleys; they do not generally own the fee title to the property underlying the right-of-way.

17.84.010 Plat Must Be Filed.

No vacation of a street, public place or plat ~~shall~~will become effective until the ordinance providing for the vacation and a plat, as provided by law, has been filed in the office of the county clerk of the county where the street, public place or plat is located. The cost of the filing and the preparation of the plat ~~shall~~must be paid by the person petitioning for the vacation.

17.84.015 Administration.

~~(Added by Ordinance 190519, effective July 28, 2021.)~~

A. The ~~Director of the Bureau of Transportation (the "Director")~~City Administrator may establish rules and procedures for Street Vacations.

B. The ~~Director of the Bureau of Transportation (the "Director")~~ ~~shall~~will be the City's recording officer and clerk for purposes of ORS 271.005 to 271.230 pertaining to the vacation of a public right-of-way, plat, public square or place.

17.84.020 Fees.

~~(Replaced by Ordinance 172859; amended by Ordinances 184957 and 190519, effective July 28, 2021.)~~

A. Whenever a request for a petition for the vacation of a street, public place, ~~or~~ plat, ~~or any part thereof~~portion of it is presented to the Portland Bureau of Transportation ("PBOT"), the person making the request ~~must~~shall pay to PBOT a fee for preparation of the petition document for vacation. The fee for this service ~~shall~~will be established annually by the ~~Director~~Council.

B. When a completed petition is presented to PBOT for filing and consideration by the ~~Portland~~ City Council (the "Council"), the person presenting the petition for the vacation ~~must~~shall pay to PBOT a fee, established by the ~~Director~~Council, to cover the estimated costs of processing the petition. All departments or bureaus involved in processing a vacation ~~shall~~will keep records of the costs incurred on each individual vacation proceeding and ~~shall~~will submit such costs to the ~~City Administrator~~Director prior to passage of the vacating ordinance. If the actual cost of advertising and expenses, and all processing costs, including employee salaries and applicable overheads, related to the vacation exceed the fee collected, a sum sufficient to cover all such costs ~~shall~~will be collected before the vacation is completed, and payment ~~thereof~~it shall will be a condition of the vacating ordinance.

17.84.025 Approval Criteria for Vacating Streets.

~~(Added by Ordinance 188177; Amended by Ordinance 188695, effective May 24, 2018.)~~

A. In considering whether the vacation will prejudice the public interest, the Council will consider the following factors, as relevant:

- 1.** The area proposed to be vacated is not needed presently, and is not identified in any adopted plan, for public services, transportation functions, utility functions, stormwater functions, view corridors and/or viewpoints, tree planting/retention, pedestrian amenities, or community or commercial uses.
- 2.** The vacation does not prevent the extension of, or the retention of public services, transportation functions, utility functions, stormwater functions, view corridors and/or view points.
- 3.** Public services, transportation functions, or utilities can be extended in an orderly and efficient manner in an alternate location;
- 4.** The vacation does not impede the future best use, development of, or access to abutting property;
- 5.** The area of the vacation is not presently, or will not in the future be, needed as part of an interconnected system of public streets that is generally consistent with the street connection and bicycle/pedestrian spacing requirements in Section 17.88.040 Through Streets.

B. When approving, or approving in part, a petition to vacate a street the Council may make reservations or conditions. Reservations or conditions may pertain to:

- 1.** The maintenance and use of underground public utilities or service facilities in the portion vacated;
- 2.** Limitations on use of the area above and adjacent to underground utilities or service facilities;
- 3.** Moving at petitioner's expense the utility or service facilities either below, on or above the surface;
- 4.** Construction, extension or relocation of sidewalks and curbs, multi-use paths, trails, or other similar pedestrian or bicycle facilities;
- 5.** Grading or pavement extensions;
- 6.** Dedication for street use or other area in lieu of the area to be vacated;
- 7.** Replat; and
- 8.** Any other matter of like or different nature relating to the vacated area and remaining or relocated street area adjacent to petitioner's property, or area dedicated in lieu of the vacation area.

17.84.030 Consideration of Petition.

~~(Replaced by Ordinance 182760; Amended by Ordinances 184046, 184957 and 190519, effective March 1, 2023.)~~

Pursuant to ORS 271.080 through 271.100, when a petition for the vacation of a street, public place or plat is presented to the Director, it shall will be reviewed, and, if found to be sufficient as provided by the statutes, and upon a formal investigation and review by city bureaus, utility companies, and other agencies, a report will be generated by PBOT and submitted to the Planning Commission ("PC") for action. Following the PC hearing, PBOT shall will prepare a report containing the findings from the formal investigation and any recommendations of the PC. The report and petition shall will be submitted to Council for consideration. Notice of the vacation hearing shall will be published and posted pursuant to ORS 271.110.

17.84.040 Bond or Cash Deposit.

~~(Amended by Ordinances 184957 and 190519, effective July 28, 2021.)~~

When the Council is petitioned to vacate any street, public place, or plat, or part thereof a portion of it, in which water mains, fire hydrants, police or fire alarm system, gas mains, steam heating mains, conduits, sewer mains or laterals, manhole structures, poles, wires or other utility or public service facilities are constructed and maintained, and the proposed vacation will require the removal of the utility or public service facilities or any portion of them, or if curbs or sidewalks are required to be extended or relocated, or if grading or additional paving is required, the ordinance vacating the street or part thereof a portion of it may provide that the vacation shall will not be effective unless the petitioner shall files with the City Administrator~~Director~~, the petitioner's~~acceptance~~ of the terms and provisions of the ordinance together with a surety bond or cash deposit, in such sum as shall may be fixed by the Council. The surety bond or cash deposit must shall be to the effect that, in the event the vacation is granted, the petitioner will, within 90 days or such other time as the Council may fix after the vacation ordinance is effective, remove or have removed by the owner, all or any part of the utility or public service facilities as required by the vacation ordinance and reconstruct and relay the facilities or have them reconstructed and relaid by the owner in the places as may be required by the City Administrator~~Director~~, and obtain other work as required by the ordinance in the manner directed by PBOT, all at the expense of the petitioner.

17.84.050 Statutory Procedures Applicable.

The provisions of ORS Chapter 271 applicable to a vacation, ~~set forth in ORS 271,~~ shall apply to each vacation. The aAlternative procedures ~~therein~~ allowed by those statutes may be followed.

17.84.060 Consent to Vacation for City as Owner.

~~(Amended by Ordinance 190519, effective July 28, 2021.)~~

Whenever City-owned property abuts an area of a street or plat sought to be vacated by petition; or is located within an “affected area” fixed by statute, the ~~Mayor, City Commissioner or Director under whose jurisdiction the property has been placed~~City Administrator may sign consent to the vacation as an owner for the purpose of Council jurisdiction and consideration.

17.84.065 Vacation on Council’s Own Motion; Notification.

~~(Added by Ordinance 136419; amended by Ordinance 190519, effective July 28, 2021.)~~

Whenever the City Council ~~shall~~initiates vacation proceedings on its own motion, the ~~City Administrator~~Director shall will give notice of the proposed action and hearing to all owners of affected real property ~~affected~~ pursuant to ORS 271.130 ~~thereby~~. Whenever the Council ~~shall~~initiates proceedings to vacate a plat or a portion ~~thereof of it~~, the ~~City Administrator~~Director shall will notify all property owners within such plat or the part portion thereof of it proposed to be vacated of the proposed action and hearing.

The notification required by this Section ~~shall~~will be given not less than 28 days before the hearings on the proposed action.

Chapter 17.88 Street Access

17.88.001 Purpose.

~~(Added by Ordinance 177028; amended by Ordinance 182760, effective June 5, 2009.)~~

The purpose of this chapter is to describe the requirements for a transportation impact study, to ensure an adequate level of street connections to serve land uses, and to ensure that improvements to these streets are made in conjunction with development consistent with fire, life safety, and access needs.

17.88.010 Definitions.

~~(Replaced by Ordinance 177028; amended by Ordinances 187681 and 190251, effective February 5, 2021.)~~

As used in this Chapter, the following terms ~~shall~~ have the following definitions:

A. "Exceptional Habitat Quality" for connectivity purposes:

1. Riparian-associated wetlands protected with environmental zones;
2. Locally or regionally rare or sensitive plant communities;

3. Important forest stands contributing multiple functions and values to the adjacent water feature habitats of sensitive, threatened or endangered wildlife species; or

4. Habitats that provide unusually important wildlife functions, such as (but not limited to) a major wildlife crossing/runway or a key migratory pathway.

B. "Mixed-Use Area" is compact development that allows a mix of uses, either within buildings or among buildings, and includes residential development as one of the potential components. Mixed-use areas include all commercial/mixed-use zones (CR, CM1, CM2, CM3, CE, CX), the EX, Central Employment Zone, and the Campus Institutional Zones (CI1, CI2, and IR). All other employment zones, industrial zones, and the Open Space Zone are not included.

C. "Significant alterations" are changes to property that are 35 percent or greater than the assessed value of all improvements on the site. Mandatory improvements for fire, life safety and accessibility do not count toward the threshold.

D. "Single-family residential zone" means any of the Single-Dwelling Zones identified in Title 33 of [thePortland](#) City Code.

E. "Frontage" means the length of public right-of-way adjacent to a property, measured in feet, but does not apply to collectors, arterials, or alleyways.

F. "Unimproved street" means any local street without a curb other than a local street that has been formally accepted by the Bureau of Transportation as having been fully built to an adopted Residential Shared or Residential Separated City street standard that does not require a curb.

G. "Local street" means any street classified as a Local Service Street in the City's adopted Transportation System Plan.

H. "Subdivision" means a division of land into four or more lots.

I. "Local Transportation Infrastructure Charge" is a charge collected to fund improvements to the City's network of unimproved local streets and adjacent or related transportation facilities.

17.88.020 For Buildings and Planning Actions.

~~(Replaced by Ordinance 177028; amended by Ordinances 182760, 184957 and 187681, effective May 13, 2016.)~~

All building permits and planning actions are subject to the following:

A. No single family, multiple dwelling, industrial or commercial building ~~shall~~[may](#) be constructed, or altered so as to increase its number of occupants, or make significant alterations to a building without resulting in increased occupancy, on

property that does not have direct access by frontage or recorded easement with not less than 10 feet width of right-of-way to a street used for vehicular traffic.

B. If a street adjacent to a property described in Subsection A. above does not have a standard full-width improvement, including sidewalks, the owner, as a condition of obtaining a building permit, conditional use, zone change, land partition or adjustment, ~~shall~~must provide for such an improvement or a portion ~~thereof~~it as designated by the ~~Director of the Bureau of Transportation~~City Administrator in accordance with provisions elsewhere in this Title. The payment of a Local Transportation Infrastructure Charge will satisfy the requirements of this Subsection.

C. Based on findings that a standard improvement is not feasible, the ~~City Administrator~~Director of the Bureau of Transportation may allow a temporary improvement appropriate for the circumstances, on the condition that the City will not maintain said temporary improvement and the owner will provide the City with a notarized document, approved as to form by the City Attorney, to be filed with the County in which property is located, stating that the present and future owners will be counted in favor of any proposed standard improvement of said street. Fee for said filing and any other expense of the City incidental to accomplishing the temporary improvement ~~shall~~must be paid by the owner.

17.88.030 Location of Multiple Dwellings.

~~(Replaced by Ordinance 177028; amended by Ordinance 182760, effective June 5, 2009.)~~

Unless permitted as part of an approved Planned Development the Council permits by ordinance, no multiple dwellings or accessory building ~~shall~~may be so located on any lot, block, tract or area within ~~the City~~Portland that any portion of the dwelling or building will be more than 250 feet from a dedicated street abutting the lot or block or that portion of a tract or area on which the multiple dwelling or accessory building ~~shall~~must have direct access to such street by way of an approved roadway.

17.88.040 Through Streets.

~~(Replaced by Ordinance 177028; amended by Ordinance 184957, effective November 25, 2011.)~~

Street connectivity provides access to adjacent properties and reduces out-of-direction travel. New or expanding development must include the following:

A. Through streets as required by the ~~Director of the Bureau of Transportation~~City Administrator connecting existing dedicated streets, or at such locations as designated by the ~~City Administrator~~Director of the Bureau of Transportation, ~~shall~~must be provided for any development or redevelopment.

B. Partial-width streets as required by the ~~City Administrator~~[Director of the Bureau of Transportation](#) where full-width streets could reasonably be provided in the future with the development or redevelopment of abutting property.

C. New residential development or development in existing or future mixed-use areas that will require construction of new street(s) must:

1. Respond to and expand on the adopted street plans, applicable to the site or area, or in the absence of such plan, as directed by the ~~City Administrator~~[Director of the Bureau of Transportation](#);
2. Provide for street connections no further apart than 530 feet, except where prevented by barriers such as topography, railroads, freeways, pre-existing development, or natural features where regulations do not allow construction of or prescribe different standards for streets;
3. Provide bicycle and/or pedestrian connections when full street connections are not possible, no further apart than 330 feet except where prevented by barriers as noted above;
4. Limit the use of cul-de-sac or closed street systems; and
5. Include street cross section(s), as directed by the ~~City Administrator~~[Director of the Bureau of Transportation](#).

D. Street and pedestrian/bicycle spacing standards may be modified in areas of exceptional habitat quality to the following standards:

1. Where streets must cross over protected water features, provide crossings at an average spacing of 800 to 1,200 feet, unless exceptional habitat quality or length of crossing prevents a full street connection.
2. Pedestrian and bicycle connections that cross protected water features should have an average spacing of no more than 530 feet, unless exceptional habitat quality or length of crossing prevents a connection.

17.88.050 Transportation Impact Study.

~~(Replaced by Ordinance 177028, effective December 14, 2002.)~~

The traffic impacts of dividing or developing land may warrant a transportation impact study. The purpose of a transportation impact study is to assess the effects of development in the vicinity of a site on traffic conditions and operations; transit, pedestrians, and bicycle movement; and neighborhood livability. A transportation impact study may be required under the following situations:

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

1. Trip generation threshold. More than 100 new vehicle trips will be generated in the peak direction (inbound or outbound) during the site's peak traffic hour; or
2. Neighborhood traffic threshold. More than 250 new trips will be generated per day that are likely to use predominately residential Local Service Traffic Streets.

B. Safety or operational impacts. Where the City ~~Engineer~~ Administrator has identified potential safety or operational concerns that may be impacted by the layout of a site or the location or size of driveways for a proposed development.

17.88.060 Dedication Prior to Permit Approval.

~~(Added by Ordinance 177028; amended by Ordinance 182760, effective June 5, 2009.)~~

No permit ~~shall~~ may be issued for the construction of any dwellings or buildings upon any lot, block, tract or area within the City until required dedications, as outlined in this Chapter, are complete.

17.88.070 Routes of Travel in Park Areas.

~~(Added by Ordinance 177028; amended by Ordinance 182760, effective June 5, 2009.)~~

The Bureau of Transportation, may, upon the request of the ~~Commissioner In Charge~~ City Administrator of the Bureau of Parks and Recreation, take over and perform the construction, reconstruction, maintenance and repair of any boulevards, roadways, drives, paths, trails, walks or other routes of travel in park areas of the City. The transfer of such responsibility to the Bureau of Transportation ~~shall~~ will not operate to remove the routes of travel from the jurisdiction and control of the Bureau of Parks and Recreation, and the planning and location of new routes ~~shall~~ will remain the responsibility of, and in the jurisdiction of, the Bureau of Parks and Recreation.

~~**17.88.080 Special Requirements for East Corridor Plan District.**~~

~~(Repealed by Ordinance 189651, effective September 6, 2019.)~~

17.88.090 Local Transportation Infrastructure Charge Required.

~~(Added by Ordinance 187681; amended by Ordinances 188891, 189651 and 190017, effective July 24, 2020.)~~

A. Project applicability. Applicants for the following projects within a single-family residential zone must pay the Local Transportation Infrastructure Charge, except as exempted by [Portland Citythis](#) Code or associated administrative rule:

1. Building permit. An applicant for a building permit to construct a new, single family building; a new building with up to six units; or another type of construction project that will increase the number of units to six on the site.
2. Land division. An applicant for approval to create multiple lots other than as part of a subdivision on real property.

B. The [Bureau of TransportationCity Administrator](#) will assess a Local Transportation Infrastructure Charge according to the total number of linear feet of unimproved street frontage. The charge will be based on the average, location-specific, actual cost to the City to build local street improvements to City standards at the time of application. The City may establish zone-specific, per-lot maximum numbers of linear feet of unimproved street frontage subject to the Local Transportation Infrastructure Charge.

C. Payment of a Local Transportation Infrastructure Charge will exempt the property subject to the application from future Local Transportation Infrastructure Charges.

D. Local Transportation Infrastructure Charges will be collected and administered by the [Bureau of TransportationCity Administrator](#). The [Director of the Bureau of TransportationCity Administrator](#) may establish rules and procedures for the Local Transportation Infrastructure Charge.

E. An applicant may not appeal under Chapter 17.06 of [Portland Citythis](#) Code the City's assessment of a Local Transportation Infrastructure Charge except as provided by administrative rule.

F. Affordable housing is exempt from Local Transportation Infrastructure Charges to the same extent and in the same manner that it is exempt from system development charges under [Portland Citythis](#) Code.

Chapter 17.92 Street Designation

17.92.010 Administration.

~~(Added by Ordinance 161984; amended by Ordinance 176555, effective July 1, 2002.)~~

For public streets and private street tracts, the City [Engineer-Administrator shall will](#) designate street prefixes, names, and numbers, keep records of such designations and exercise such other powers as are necessary to carry out the provisions of this Chapter.

17.92.020 Prefixes for Street Designations.

~~(Replaced by Ordinance 189151, effective October 5, 2018)~~

A. Burnside Street east of the Willamette River ~~shall be~~is designated as East and the prefix "E" ~~shall be~~is added to the street name.

B. Burnside Street west of the Willamette River ~~is shall be~~ designated as West and the prefix "W" ~~is shall be~~ added to the street name.

C. All streets east of the Willamette River, north of the centerline of Oregon Street and west of the centerline of Williams Avenue ~~are shall be~~ designated as North and the prefix "N" ~~is shall be~~ added to the street name. Williams Avenue and the portion of Oregon Street west of the centerline of Williams Avenue ~~are shall be~~ designated as North and the prefix "N" ~~is shall be~~ added to the street name.

D. All streets east of the Willamette River between the centerline of Burnside Street and centerline of Oregon Street ~~are shall be~~ designated as Northeast and the prefix "NE" ~~is shall be~~ added to the street name excluding Burnside Street and excluding the portion of Oregon Street west of Williams Avenue. Oregon Street east of the centerline of Williams Avenue ~~is shall be~~ designated as Northeast and the prefix "NE" ~~is shall be~~ added to the street name.

E. All streets east of the Willamette River north of the centerline of Oregon Street and east of the centerline of Williams Avenue ~~shall be are~~ designated as Northeast and the prefix "NE" ~~is shall be~~ added to the street name excluding Williams Avenue. Oregon Street east of the centerline of Williams Avenue ~~is shall be~~ designated as Northeast and the prefix "NE" ~~is shall be~~ added to the street name.

F. All streets east of the Willamette River south of the centerline of Burnside Street ~~shall be are~~ designated as Southeast and the prefix "SE" ~~is shall be~~ added to the street name excluding Burnside Street.

G. All streets west of the Willamette River and south of the centerline of Clay Street and east of the centerlines of Naito Parkway and View Point Terrace, and east of Tryon Creek State Natural Area ~~shall be are~~ designated as South and the prefix "S" ~~is shall be~~ added to the street name excluding Naito Parkway and View Point Terrace. Terwilliger Boulevard south of Palater Road and north of the Clackamas County line ~~is shall be~~ designated as South and the prefix "S" ~~is shall be~~ added to the street name. The portions of Edgecliff Road, Iron Mountain Boulevard and Riverside Drive north of the Clackamas County line ~~shall be are~~ designated as South and the prefix "S" ~~is shall be~~ added to the street name. Ridge Drive east of 46 feet east of the southerly extension of the centerline of View Point Terrace ~~is shall be shall be~~ designated as South and the prefix "S" ~~is shall be~~ added to the street name.

H. All streets west of the Willamette River between the centerline of Burnside Street and centerline of Clay Street ~~shall be are~~ designated as Southwest and the prefix "SW" ~~is shall be~~ added to the street name excluding Burnside Street.

I. All streets west of the Willamette River south of the centerline of Clay Street and west of Naito Parkway, View Point Terrace and Tryon Creek State Natural Area ~~shall beare~~ designated as Southwest and the prefix "SW" ~~is~~shall be added to the street name. Naito Parkway and View Point Terrace, all streets within Tryon Creek State Natural Area and Terwilliger Boulevard north of Palater Road ~~shall beare~~ designated as Southwest and the prefix "SW" ~~is~~shall be added to the street name. Ridge Drive west of 46 feet east of the southerly extension of the centerline of View Point Terrace ~~is~~shall be ~~shall be~~ designated as Southwest and the prefix "SW" ~~is~~shall be added to the street name.

17.92.030 Designation of Streets, Avenues, Boulevards and Drives.

~~(Amended by Ordinances 161984, 177028 and 191452, effective October 20, 2023.)~~

A. All streets within the corporate limits of the City running in an easterly and westerly direction ~~shall beare~~ designated with a "street" street suffix and all streets running in a northerly and southerly direction ~~shall beare~~ designated with an "avenue" street suffix.

B. Streets in Northeast, Northwest, Southeast, or Southwest Portland lying between two consecutively numbered north-south streets ~~shall beare~~ designated with a "place" street suffix and ~~shall~~ take the underlying name of the street closest to the Willamette River.

C. Streets in North Portland lying between two consecutively named north-south streets ~~shall beare~~ designated with a "place" street suffix and ~~shall~~ take the underlying name of the street closest to Williams Avenue.

D. Streets in South Portland lying between two consecutively named north-south streets ~~shall beare~~ designated with a "place" street suffix and ~~shall~~ take the name of the underlying street closest to Naito Parkway or to View Point Terrace.

E. Streets lying between two consecutively named east-west streets ~~shall beare~~ designated with a "court" street suffix and ~~shall~~ take the underlying name of the street closest to Burnside Street.

F. The street suffix "drive," "lane," "terrace" or "way" may be used to designate winding or circuitous streets.

G. Scenic, arterial or greenscape streets may be designated with a "boulevard" street suffix or with a "drive" street suffix in lieu of a "street" or "avenue" street suffix.

H. All streets ~~shall beare~~ designated by one name for the entire length.

Chapter 17.93 Renaming City Streets

~~(Chapter added by Ordinance 161897, effective June 4, 1989.)~~

17.93.010 Criteria For Renaming a City Street.

A. Any individual or organization may apply to the City to rename a City street. City streets may only be renamed after a prominent person. Such prominent person must be:

1. a person who has achieved prominence as a result of ~~his or her~~the person's significant, positive contribution to the United States of America and/or the local community;
2. a real person; and
3. a person who has been deceased for at least five years.

B. Only one street renaming application ~~shall~~may be processed at a time, and only one street name change ~~shall~~may be implemented per year for a major traffic or district collector street. Additional applications ~~shall~~will be placed on a waiting list and processed in order of submission when this criteria can be met.

17.93.020 Selection of Street to be Renamed.

A. The name of the street proposed for renaming ~~shall~~may not be changed if the existing name is of historic significance, or the street is significant in its own right.

B. The street proposed for renaming must start and terminate entirely within City boundaries.

C. The name of any street ~~shall~~must be the same for its entire length. Renaming only portions of a street ~~shall~~is not ~~be~~ permitted.

17.93.030 Application Procedure and Fees.

~~(Amended by Ordinance 183829, effective July 1, 2010.)~~

The applicant must conform to the following procedure in applying to rename a City street:

A. The applicant ~~shall~~must submit evidence to the City Engineer that the street renaming proposal ~~is in compliance~~is in compliance with Section 17.93.010 A. 2. and A. 3., and Section 17.93.020 B. and C. If the City Engineer determines the submittal does not comply with these sections, the applicant will be so advised and the City ~~shall~~will take no further action. If the submittal ~~is in compliance~~is in compliance with the above-referenced sections, the City Engineer ~~shall~~will issue the application materials described in Subsection B.

B. The applicant ~~shall~~must obtain from the City Engineer:

1. official petition forms;

2. instructions as to fees and required procedures; and
3. the application form.

C. The applicant mustshall, after filing a completed City Engineer's application form and paying any applicable fees:

1. Obtain a minimum of 2500 signatures in support of the proposal from legal residents of the City at large or signatures of at least 75% of the abutting property owners along the street proposed for renaming on the petition forms supplied by the City Engineer.
2. Make a good faith effort to obtain a letter of concurrence to the proposed street renaming from the honoree's surviving spouse, children, or parents, in that order. The City Engineer shall-may accept registered mail receipts and copies of all letters as evidence of compliance with this provision.
3. Provide to the City Engineer supporting information including a complete biography of the proposed honoree with references of substantiation, honors received, contributions to the national and/or local community, et cetera, which will be reviewed by a historian panel appointed pursuant to Section 17.93.040 A. This submission mustshall contain sufficient information to allow the historian panel to accurately assess the appropriateness of renaming a street after the proposed honoree.

D. The applicant shall-will have 180 calendar days to complete and submit the information required by Subsection C. to the City Engineer's office. If the completed application has not been submitted to the City Engineer within 180 calendar days after the application has been received by the applicant, the application shall-will be invalid. No time extension shall-may be granted. At the time of submission, the City Engineer shall-may check the applicant's application and accept it only if it is complete and appears to comply with the requirements of Sections 17.93.010 through 17.93.030.

1. If the City Engineer accepts the submission, the applicant mustshall make a fee deposit to cover the full cost of printing and mailing postcards and public notices as determined by the City AuditorAdministrator. The minimum fee deposit shall-will be as established in the Transportation Fee Schedule if the street proposed for renaming is ten City blocks (½ mile) or less in length. If the street proposed for renaming is more than ten City blocks (½ mile), the minimum deposit shall-will be as established in the Transportation Fee Schedule. The Auditor-City Administrator shall-will refund any unused portion of the deposit to the applicant; or the applicant shall-may be required to pay for any cost of printing, mailings, and public notices in excess of the fee deposit.

17.93.040 Review of Application and Public Hearings.

~~(Amended by Ordinances 182389, 184046 and 191150, effective March 1, 2023.)~~

Upon receipt of the applicant's packet, the City ~~shall~~will process the application as follows:

A. The City Engineer ~~shall~~will, within 14 calendar days after submission of the completed application, refer the street renaming application to a panel of three historians or persons with appropriate expertise appointed by the ~~Commissioner in charge of the Bureau of Transportation~~City Administrator for review and determination as to appropriateness of the proposed name and its compliance with criteria for selecting a new street name, and determination as to historic significance of the street.

B. The City Engineer ~~shall~~will notify all neighborhood and business associations recognized by the City ~~which that~~ encompass or represent owners of property or businesses located on property abutting the street proposed for renaming of the proposed renaming and request that they submit in writing to the City Engineer their support or opposition to the proposed name change within 45 days.

C. The Historian Panel ~~shall~~will have 45 calendar days from the date of receipt to review the application and advise the City Planning Commission as to its recommendations. If the panel does not provide a recommendation within the 45-day period, the Planning Commission ~~must~~shall review the application with no recommendation unless the Planning Commission grants a time extension to the Historian Panel, which ~~shall~~may not exceed 14 calendar days.

D. Concurrent with the Historian Panel review under Subsection C. of this Section, the ~~Auditor~~City Administrator ~~shall~~will conduct a postcard mailing survey of each legal owner and each legal address abutting the street in question, notifying them that there will be public hearings by the Planning and Sustainability Commission ~~and City Council~~ regarding the proposed street renaming and requesting the occupant and owner's input within 30 calendar days, as to the proposed name change. The ~~City Administrator~~Auditor ~~shall~~will also receive and tabulate all responses to the postcard survey and forward the results to the ~~City Planning and Sustainability~~ Commission.

E. The City Engineer ~~shall~~will prepare and submit to the Planning ~~and Sustainability~~ Commission a budget impact statement as to the direct cost of production and installation of new street name signs and related City costs.

F. The ~~City Planning and Sustainability~~ Commission ~~shall~~will conduct a public hearing on the matter and make a recommendation to the ~~City Council~~City Administrator as to the best interest of the City and the area within six miles of the City limits in accordance with ORS 227.120.

~~**G.** The Auditor shall schedule a public hearing before City Council on the matter. Notice of the hearing shall be published in a newspaper of general~~

~~circulation not less than once within the week prior to the week within which the hearing is to be held.~~

~~H. A public hearing shall be held before City Council on the proposed street name change.~~

~~I~~**G.** The ~~Council~~City Administrator may approve or deny application for a street name change upon determination of the best interests of the City and the area within six miles of the City limits. If ~~Council~~the City Administrator denies the application, it ~~will be~~is filed with no further consideration, and the subject name and street ~~shall~~may not be considered again under this ~~Policy~~Chapter for a period of at least two years. If ~~Council~~the City Administrator approves the application, certified copies of the ~~enabling Ordinance~~approval ~~shall~~will be filed with the County Recorder, County Assessor, and County Surveyor.

17.93.050 ~~Council~~City-Initiated Action to Rename a City Street.

The ~~City Administrator~~Council may rename a street in order to correct errors in street names, or to eliminate confusion. Such action may be taken if it is determined that insignificant impact will result and it is desirable for the convenience of the general public. Renaming of a street by the City under provisions of this paragraph ~~shall~~may not be undertaken to rename a street after a person as provided for in other sections of this ~~Chapter~~Chapter. Therefore, City-initiated actions to rename a street under ~~provisions of~~this paragraph ~~shall~~be exempt from compliance with Sections 17.93.010 through 17.93.030 and Section 17.93.040 A. through D. Section 17.93.040 E. through ~~G.~~G. ~~shall continue to be~~remain applicable.

17.93.060 Implementation.

A. After ~~Council~~the City's approval of the name change, the Bureau of ~~Maintenance~~Transportation ~~shall~~will install the new name signs adjacent to the existing street name sign. Both signs ~~shall~~will be in place for a period of five years, unless a petition is submitted to ~~the City Administrator~~City Council from a majority of abutting property occupants requesting that the dual signage period be shortened. Both street name signs ~~shall~~will be maintained for the five-year period at the same level of maintenance approved for street name sign maintenance ~~Citywide~~Citywide, after which time the old name ~~shall~~will be removed.

B. The ~~Auditor~~City Administrator ~~shall~~will also notify the following organizations and individuals of the street name change through public notice, inter-office correspondence, or other appropriate means within 30 days after approval of the enabling ~~O~~rdinance:

1. The applicant;
2. Affected City, ~~C~~County, ~~S~~State, and ~~F~~Federal ~~A~~Agencies;
3. General public;

4. Emergency service organizations;
5. Owners and occupants of all property abutting the street being renamed;
and
6. United States Postal Service.

Chapter 17.96 Surveys, Elevations and Monuments

~~(Chapter amended by Ordinance 182760, effective June 5, 2009.)~~

17.96.005 Preservation of Record Monuments.

~~(Added by Ordinance 182760, effective June 5, 2009.)~~

Any person or public agency removing, disturbing or destroying any survey monument of record in the office of the County surveyor or County clerk ~~must~~shall cause a registered professional land surveyor to reference and replace the monument as prescribed by the applicable Oregon Revised Statutes. The cost of referencing and replacing the survey monument ~~must~~shall be paid by the person or public agency causing the removal, disturbance or destruction.

~~17.96.010 Base Line Established.~~

~~(Repealed by Ordinance 182760, effective June 5, 2009.)~~

~~17.96.020 Monuments Established.~~

~~(Repealed by Ordinance 182760, effective June 5, 2009.)~~

~~17.96.030 Base Line for Couch's Addition Established.~~

~~(Repealed by Ordinance 182760, effective June 5, 2009.)~~

~~17.96.040 Monuments Established in Couch's Addition.~~

~~(Repealed by Ordinance 182760, effective June 5, 2009.)~~

17.96.050 Datum Plane Established (City of Portland Vertical Datum).

~~(Amended by Ordinance 182760, effective June 5, 2009.)~~

All grade elevations in ~~the City of Portland~~ shall be referred to a fixed datum established ~~herein~~ in this Section. The datum plane for grades was originally established 56.743 feet below the initial bench mark set by the City in the southerly quadrant of the top step of the Soldiers' Monument located in Lownsdale Square in ~~the City of Portland~~, said bench mark being marked "CITY OF PORTLAND, INITIAL CLASS A BENCH MARK NO. 00, \$50 FINE FOR DISTURBING." A datum plane

above described is ~~hereby~~ established as the official datum of the City. The United States geological survey bench mark set in the granite base of the north pillar of the porte cochere at the SW 5th Avenue central entrance to the City Hall in Portland has an elevation 78.835 feet above the datum plane of ~~Portlandthe City~~ as ~~herein~~ established in this Chapter.

~~17.96.060 Grade Elevations To Be Recorded.~~

~~(Repealed by Ordinance 182760, effective June 5, 2009.)~~

17.96.062 City Benchmarks.

~~(Added by Ordinance 182760, effective June 5, 2009.)~~

The City Surveyor ~~shall~~will establish and maintain a network of benchmarks throughout the City. Benchmarks are survey markers that have a specific elevations determined for them and these elevations are referenced to the City of Portland Vertical Datum. Benchmark information can be found on the Portland Transportation Survey Section website.

17.96.065 Preservation of City Benchmarks.

~~(Added by Ordinance 182760, effective June 5, 2009.)~~

Any person or public agency removing, disturbing or destroying a City Benchmark ~~must~~shall contact the Portland Transportation Survey Section as soon as it is apparent that a Benchmark will be or has been removed, disturbed or destroyed. Survey may set a new Benchmark in the vicinity of the old one and establish an elevation for it.

17.96.070 Grade Elevations To Be Referred to Datum Plane.

All proposed establishment of grades or changes of grades in ~~Portlandthe City~~ submitted to the Council ~~shall~~will be referred to the datum plane.

17.96.080 Prior Grades Not Affected.

The establishment of a fixed base to which all grade elevations are referred as outlined in this Chapter ~~shall~~will in no way affect the validity of grades or any improvements carried out prior to such establishment.

Chapter 17.100 Remedies and Penalties

~~(Chapter replaced by Ordinance 155257, effective October 27, 1983.)~~

17.100.010 Enforcement Independent of Other Officials.

~~(Amended by Ordinance 173295, effective April 28, 1999.)~~

The authority of Responsible Officials and Responsible Engineers to enforce the provisions of this Title is independent of and in addition to the authority of other City officials to enforce the provisions of any Title of the City Code.

17.100.020 Responsible Official and Responsible Engineer Designated Representative.

~~“(Amended by Ordinance 173295, effective April 28, 1999.)”~~

Responsible Officials” and “Responsible Engineers” as used in this Chapter ~~shall~~ include their representatives.

17.100.030 Liability.

~~“(Amended by Ordinance 173295, effective April 28, 1999.)”~~

The Responsible Officials and Responsible Engineers, or authorized representatives of the Responsible Officials and Responsible Engineers charged with the enforcement of this Title, acting in good faith and without malice in the discharge of their duties, ~~shall will~~ not ~~thereby~~ render themselves personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of their duties. Any suit brought against the Responsible Officials and Responsible Engineers or employee because of such act or omission performed by them in the enforcement of any provision of this Title ~~shall~~ will be defended by legal counsel provided by this jurisdiction until final termination of such proceedings.

17.100.040 Remedies.

~~“(Amended by Ordinance 173295, effective April 28, 1999.)”~~

A. In addition to any other remedies or penalties provided by this Title or by any other law, the Responsible Officials and Responsible Engineers may enforce the provisions of this Title by:

1. Instituting an action before the Code Hearings Officer as set out in Title 22 of this Code, or
2. Causing appropriate action to be instituted in a court of competent jurisdiction, or
3. Taking such other actions as the Responsible Officials and Responsible Engineers in the exercise of their discretion deem appropriate.

B. Nothing in this Section ~~shall may~~ be construed to afford a person the right of appeal, pursuant to Chapter 22.10, to the Code Hearings Officer from a decision or determination of the Responsible Officials and Responsible Engineers, or any bureau designated under Chapter 3.12 of this Code.

17.100.050 Penalty for Violation.

~~(Amended by Ordinances 173295 and 188692, effective January 1, 2018.)~~

Any person who violates any provision of this title ~~shall be~~ subject to a civil penalty as specified in the adopted Transportation Fee Schedule. In the event that any provision of this Title is violated by a firm or corporation, the officer or officers or person or persons responsible for the violation ~~shall be~~ subject to the penalty ~~herein~~ provided in this Section.

Chapter ~~8.80~~17.101 Leaf Blowers

~~• City Code Chapter~~

- ~~8.80~~17.101.010 Purpose.
- ~~17.1018.80~~.020 Definitions.
- ~~17.1018.80~~.030 Authority of Director.
- ~~17.1018.80~~.040 Requirements.
- ~~17.1018.80~~.050 Extensions.
- ~~17.1018.80~~.060 Penalties for Violations.
- ~~17.1018.80~~.070 Right of Appeal.

~~(Chapter added by Ordinance 191653, effective April 12, 2024.)~~

17.1018.80.010 Purpose.

The purpose of this Chapter is to reduce the health impacts of using gasoline leaf blowers.

17.1018.80.020 Definitions.

~~**A. Code Enforcement Officer** means any individual authorized to enforce this Chapter.~~

~~**B. Director** means the Director of the Bureau of Planning and Sustainability, or any successor bureau, or the Director's designee.~~

AC. Electric leaf blower means any leaf blower powered by only electric means, including but not limited to battery-powered leaf blowers, cordless rechargeable leaf blowers and corded leaf blowers.

BD. Gasoline leaf blower means any leaf blower powered by an internal combustion engine using gasoline, alcohol or other liquid or gaseous fluid.

CE. Inclement weather means extreme weather conditions resulting from rain, snow, ice, flood, or other storm that pose a significant risk of injury to persons or property.

DF. Leaf blower means any hand-held or backpack device designed or intended to blow, vacuum, or move leaves or any other type of debris or material by generating a concentrated stream of air. Leaf blower includes any device or machine that accepts vacuum attachments.

EG. Owner means any of the following:

1. One or more individuals or entities, jointly or severally, in whom is vested: all or part of the legal title to real property; or all or part of the beneficial ownership and right to present use and enjoyment of real property.
2. A mortgagee of real property who is in possession of that property.
3. In the case of a condominium, the board of the association of condominium unit owners responsible for overall management.

17.1018-80.030 Authority of Director.

A. The ~~Director~~ City Administrator is authorized to administer the provisions of this Chapter.

B. The ~~Director~~ City Administrator may, upon request, issue written interpretations of how this Chapter applies in general or to specific circumstances.

C. The ~~Director~~ City Administrator 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 will 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 Bureau of Planning and Sustainability's website, will be published at least four weeks before the close of the public comment period. The notice will 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 Bureau of Planning and Sustainability's website.~~

~~3. Notwithstanding Subsections 1. and 2., the Director may adopt an interim rule to temporarily suspend or modify the requirements of this Chapter based on the determination that such requirements are temporarily infeasible due to economic or technical circumstances. An interim rule may be adopted without prior public notice upon the Director 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 365 calendar days. The Director may extend the interim rule past the 365 calendar days for good cause, as determined in the Director's sole discretion.~~

17.1018-80.040 Requirements.

A. Effective January 1, 2026, no owner ~~will~~may allow the operation of a gasoline leaf blower on the owner's property from January 1 to September 30, except in cases of inclement weather as determined by the City Administrator. :

~~1. on a citywide basis, by the Director;~~

~~2. for park facilities managed by the City, by the Director of the Bureau of Parks or any successor bureau; or~~

~~3. for an individual property, by the Code Enforcement Officer.~~

B. Effective January 1, 2028, no owner ~~will~~may allow the operation of a gasoline leaf blower on the owner's property.

C. No leaf blower ~~will~~may be operated in a manner that deposits dust and debris onto any neighboring parcel, storm drain, public property, or public street except for the purpose of scheduled debris collection by the City.

17.1018-80.050 Extensions.

The ~~Director~~City Administrator may grant an extension of time to comply with Section ~~8-80~~17.101.040 to an owner who submits documentation that compliance will require the owner to upgrade electric infrastructure. The owner must provide the ~~Director~~City Administrator any documentation requested to substantiate the extension or otherwise assist the ~~Director~~City Administrator in the extension determination. If the ~~Director~~City Administrator learns that an extension was granted based on materially inaccurate submissions, the ~~Director~~City Administrator may revoke or modify the extension.

17.1018-80.060 Penalties for Violations.

It is a violation for any owner to fail to comply with this Chapter or to misrepresent any material fact.

A. Violations may result in a written notice of violation. The notice will state the date, address and violation and specify any corrective action required to comply with this Chapter.

B. A first violation will result in a warning. A second violation may result in a civil penalty of \$250. A third violation may result in a civil penalty of \$500. A fourth or subsequent violation may result in a civil penalty of \$1,000. Each day an owner is in violation is deemed a separate violation.

C. Education and outreach on the requirements of Section ~~17.1018-80~~.040 will begin in July 2024.

17.1018-80.070 Right of Appeal.

An owner who receives a civil penalty may, within ten business days of the date of the decision or determination, either pay the penalty amount or request an appeal hearing before the Code Hearings Officer in accordance with procedures set forth in Chapter 22.10 of the Portland City Code. The filing of an appeal request will stay the effective date of the penalty until the appeal is determined by the Code Hearings Officer. If payment of the penalty is ordered, ~~the~~^{such} payment must be received by the Director-City Administrator or postmarked within 15 calendar days after the order becomes final.

Chapter 17.102 Solid Waste & Recycling Collection

~~(Chapter replaced by Ordinance 182190, effective October 10, 2008.)~~

17.102.010 Declaration of Policy.

~~(Amended by Ordinance 189293, effective January 11, 2019.)~~

It is the policy of the City ~~of Portland~~ to reduce the amount of solid waste, both generated and disposed of, by promoting aggressive waste prevention and recycling activities. The City ~~shall promote~~^s the development of environmentally and economically sound practices regarding the collection, processing and end use of solid waste, recyclable material and compostable material. In order to attain these goals and protect public health and the environment, the City ~~shall regulate~~^s collection of solid waste, recyclable and compostable materials within the City. In carrying out this policy, the goals of this Chapter are:

A. To promote sustainability of the system of solid waste and recycling collection, by seeking to maximize efficiency, equity and economic vitality, improve worker safety and reduce environmental and human health impacts over the entire life cycle of the materials.

B. To set and achieve recycling goals for Portland that are among the highest in the nation.

C. To target reductions in toxic waste, to minimize its harmful effects and to reduce greenhouse gas emissions.

D. To ensure the safe and sanitary collection, transportation and recovery of solid waste, recyclable and compostable materials.

E. To provide Portland residents and businesses the opportunity to recycle more materials through convenient on-site, curbside and depot collection programs and through the addition of recyclable materials to the curbside collection program as appropriate.

F. To establish and enforce solid waste, recyclable and compostable material collection standards to ensure uniform, cost effective and high-quality service delivery to all residential customers.

G. To establish rates for residential waste collection ~~which~~that are fair to the public, encourage waste reduction, and promote safe, efficient collection.

H. To establish and enforce solid waste, recyclable and compostable material collection standards, cost effective and high-quality service delivery and inform collection service options for all commercial customers.

I. To promote community awareness in order to achieve the highest participation possible in the solid waste and recycling collection system.

J. To enhance solid waste reduction and recycling in the multifamily, commercial, institutional and industrial sectors by ensuring that comprehensive recycling systems are provided at every establishment not covered by the residential franchise, and that owners of the establishments encourage extensive use of those systems by all employees.

K. To undertake research, studies and demonstration projects on developing more efficient, economical and effective methods of solid waste reduction, recycling and collection.

17.102.020 Definitions.

~~(Amended by Ordinances 182671, 186877, 189293, 189891 and 190573, effective November 5, 2021.)~~

For purposes of Chapter 17.102, and rules adopted ~~there~~under it, the following terms ~~shall be~~are understood to have the meanings specified in this Section. Terms, words, phrases, and their derivatives used but not specifically defined in this Chapter ~~shall~~ have the meanings commonly accepted in the community.

A. “Administrative Rule” means all rules promulgated under Section 17.102.030 of this Chapter.

B. “Approved Residential Recycler” means a person that has been granted approved residential recycler status by the ~~Director~~[City Administrator](#). Approved residential recycler includes any employees or other persons authorized to act on behalf of the approved residential recycler.

C. “Assessment” means a civil penalty assessed for an infraction as provided in Chapter 17.102 or the franchise.

D. “Assigned Territory” means an area within ~~the City~~[Portland](#) in which only a franchisee designated by the City may collect solid waste and recyclable material from residential customers.

E. —“Biodiesel” is a domestic, renewable fuel for diesel engines derived from vegetable oils, or animal fats, designated B100, ~~and which that~~ meets the specifications of ASTM #D6751-03a “Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels” or revised ASTM specifications.

F. —“Biodiesel Blend” is a blend of biodiesel fuel meeting the ASTM #D6751-03a or revised ASTM specifications and ASTM #D5453 “Test Method for Determination of Total Sulfur in Light Hydrocarbons, Motor Fuels and Oils by Ultraviolet Fluorescence”, or revised ASTM specifications, comprised of biodiesel and ultra-low sulfur diesel fuels blended by a percentage of each individual component. Biodiesel Blend also includes renewable diesel blends, derived from vegetable oils or animal fats through fractional distillation, if the fuel meets a maximum carbon intensity of 56 gCO₂e/MJ as provided by the Oregon Department of Environmental Quality Clean Fuels Program.

G. “Business” means any commercial entity, including industrial and institutional, but not including multifamily complexes or commercial entities that occupy 50 percent or less of the floor area of a residence.

H. “City” means [the municipal government of](#) the City of Portland, Oregon, and such territory outside of ~~this City~~ [Portland](#) over which the City has jurisdiction or control by virtue of any Intergovernmental Agreement or law.

I. “Collect” or “Collection” means to accept, accumulate, store, process, transport, market or dispose of.

J. —“Collection Vehicle” means any vehicle used for the collection of residential or commercial solid waste, recycling or compostables that is safe to operate and ensures the contents are not littered in the course of servicing customers.

K. “Commercial” means relating to an entity that is non-residential in nature or, if residential, consists of five or more dwelling units on a single tax lot.

L. “Commercial Collection” means the collection of solid waste, recyclable and compostable materials in exchange for compensation from:

1. A non-residential source; or
2. A multifamily residence of five or more dwelling units located on a single tax lot.;

M. “Compensation” means:

1. Any type of consideration paid for collection service, including, without limitation, rent or lease payments and any other direct or indirect provision of payment of money, goods, services or benefits by owners, tenants, lessees, occupants or similar persons;
2. The exchange of services between persons; and
3. The flow of consideration from the person owning or possessing the solid waste recyclable or compostable material to the person providing collection service or from the person providing collection service to the person owning or possessing the solid waste recyclable or compostable material.

N. “Compostable Material” and **“Compostable”** means yard debris, food scraps and food soiled paper when source separated for controlled biological decomposition. Compostable material shall does not include food soiled paper containing plastic or other materials that inhibit controlled biological decomposition.

O. “Composting” means the series of activities, including collection, separation, and processing, by which compostable materials are recovered from or otherwise diverted from the solid waste stream for controlled biological decomposition. Composting includes composting of source separated organics but not composting of mixed waste.

P. “Covered Food Scraps Generating Business” means organizations that cook, assemble, process, serve, or sell food or do so as service providers for other enterprises.

Q. “Customer” when used to refer to commercial collection service, means a person that has arranged for the collection of solid waste, recyclable or compostable materials, excluding residential collection service covered by a franchise. Where several businesses share containers and service, customer refers only to the person that arranges for the service.

R. “Customer” when used to refer to residential collection service means any person who receives solid waste, recycling or compostables collection service at a residence (four-plex or smaller) in a franchise territory. The customer need not be the person billed for such service. For rental properties where the owner of the

property is required to subscribe for service, the owner ~~shall~~will be considered the customer.

S. “Director” means the Director of the City’s Bureau of Planning and Sustainability or their authorized representative, designee or agent.

T. “Food Soiled Paper” means paper products that cannot be recycled into paper products and have been in contact with organic materials to the degree that they would not be able to be recycled into paper products. Food soiled paper includes, but is not limited to, used napkins and paper towels.

U. “Food Scraps” means waste from fruits, vegetables, meats, dairy products, fish, shellfish, nuts, seeds, grains, coffee grounds, and other food that results from the distribution, storage, preparation, cooking, handling, selling or serving of food for human consumption. Food waste includes but is not limited to excess, spoiled or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, and peels. Food waste does not include liquids or large amounts of oils and meats ~~which~~that are collected for rendering, fuel production or other non-disposal applications, or any food fit for human consumption that has been set aside, stored properly and is accepted for donation by a charitable organization and any food collected to feed animals in compliance with applicable regulations.

V. “Franchise” means a franchise for the collection of residential solid waste, recyclable materials and compostables, granted by Ordinance No. 181666, and as amended by subsequent ordinances.

W. “Franchisee” means a business that has been granted a franchise by Ordinance No. 181666 and subsequent amending ordinances. Franchisee includes any employees or other persons authorized to act on behalf of the franchisee. Franchisee has a meaning identical to that of “grantee” as used in the franchise. A franchisee holds a single franchise for collection service in any and all of its franchise territories, including any territories transferred from other franchisees as approved by the Portland City Council, subsequent to Ordinance No. 181666, and as amended by subsequent ordinances.

X. “Franchise Territory” means an area within ~~the City~~Portland in which only a person granted a franchise by the City may collect residential solid waste, recyclable materials or compostables, from residential customers. A single franchisee may serve more than one franchise territory.

Y. “Independent Commercial Recycler” means a person who collects only recyclable materials or yard debris from non-residential sources and does not collect solid waste.

Z. “Infraction” means a failure to comply with ~~Portland~~ City Code Chapter 17.102, the franchise, or the administrative rules promulgated ~~thereunder~~it, as applicable.

AA. “Metro” means the metropolitan service district responsible for regional solid waste management and planning within Clackamas, Multnomah and Washington Counties.

BB. “Multifamily Complex” or “Multifamily” means any multidwelling building or group of buildings that contain(s) five dwelling units or more on a single tax lot, such as apartments, condominiums, mobile home parks, or houseboat moorages. Multifamily also includes certified or licensed residential care housing, such as adult foster care homes.

CC. “BPS” means the City’s Bureau of Planning and Sustainability.

DD. “Permittee” means any person granted a commercial collection permit under Section 17.102.210 of this Chapter.

EE. “Person” means any individual, partnership, association, firm, trust, estate, a public or private corporation, a local government unit, a public agency, the state or any other legal entity.

FF. “Recyclable Material” and “Recyclable” means material designated by BPS as retaining useful physical, chemical, or biological properties after serving its original purpose or function, and that can be collected by franchisees or permittees as mixed recyclables in a blue cart, cage, or dumpster, glass recyclables in a separate bin, or used motor oil in an empty milk jug.

GG. “Recycling” means any process by which materials are transformed into new products in such a manner that the original products may lose their identity.

HH. “Residence” means any dwelling unit that is a four-plex or smaller, regardless of whether it has subscribed for waste collection, or has waste collection, in individual cans, carts or containers. Residence includes multifamily dwellings such as apartment complexes, condominiums, mobile home parks, or houseboat moorages with four units or fewer on a single tax lot. Residence also includes dwelling units used by fraternities or sororities. Residence does not include any multifamily complex as defined in this Section, multi-dwelling building or group of buildings that contain(s) five dwelling units or more on a single tax lot, such as condominiums, mobile home parks, or houseboat moorages, nor does residence include certified or licensed residential adult foster care homes. Residence does not include any dwelling where over 50 percent of the entire building is being used for business purposes. Agreements between owners of residences purporting to provide for the collection of solid waste and recyclable on a combined basis ~~shall~~will not alter the status of each dwelling unit as a residence.

II. “Resident” means any person living in a residence.

JJ. “Residential” means of or pertaining to a residence.

KK. “Self-haul, Commercial” when used in reference to solid waste, recyclables or compostables generated by a commercial entity, means the collection and transportation of material from a commercial entity where an owner or employee of the entity hauls the material rather than hiring a permittee or independent commercial recycler to perform this function.

LL. “Solid Waste” has the meaning given in ORS 459.005(24) (2013), but does not include the following materials:

1. Sewage sludge, septic tank and cesspool pumpings or other sludge, and grit, screenings and other residues delivered by sewer systems to municipal treatment plants.
2. Discarded or abandoned vehicles;

MM. “Source Separate” means that the person who last used recyclable or compostable material separates the material from solid waste and keeps the recyclable or compostable material separate from solid waste.

NN. “Yard Debris” includes grass clippings, leaves, hedge trimmings and similar vegetative waste generated from residential property or landscaping activities but does not include stumps or similar bulky wood materials.

17.102.030 ~~Authority of Director to Adopt Administrative~~ Rules.

~~(Amended by Ordinances 182671 and 189078, effective July 18, 2018.)~~

~~The City Administrator may adopt administrative rules as authorized by Charter.~~

~~A. The Director is hereby authorized to administer and enforce the provisions of this Chapter.~~

~~B. The Director is authorized to adopt rules, procedures, and forms to implement the provisions of this Chapter.~~

~~1. Any rule adopted pursuant to this section shall require a public review process. Not less than ten nor more than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.~~

~~2. During the public review, the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendations; taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. If a substantial modification is made, additional public review shall be conducted, but no additional notice shall be required if such~~

~~additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director.~~

~~3. Notwithstanding paragraphs 2 and 3 of this Section, an interim rule may be adopted by the Director without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than one year (365 days). Within five business days of the adoption of an interim rule, the Director shall send notice of the rule to all the following, giving the language of the rule change, describing the purpose of the rule, and inviting the submission of comments.~~

~~a. Neighborhood associations recognized by the City Office of Community & Civic Life,~~

~~b. District Coalitions recognized by the City Office of Community & Civic Life,~~

~~c. Business District Associations identified by the City Office of Community & Civic Life,~~

~~d. Persons on the BPS list of parties interested in administrative rules, and~~

~~e. Franchisees and permittees,~~

17.102.040 General Requirements for Franchisees and Permittees.

All franchisees and permittees must comply with applicable federal law, statutes of the State of Oregon, ordinances of Metro or the City and rules and regulations promulgated ~~there~~under them.

17.102.050 Clean and Efficient Fleet Practices.

~~(Replaced by the Ordinance 185449; amended by Ordinances 189293 and 189891, effective April 17, 2020.)~~

~~The Director is authorized to draft regulations to protect the public health and the environment. This can include requiring the use of a blend of biodiesel fuel in any collection vehicle with a diesel engine and requiring regular replacement of all collection vehicles used by franchisees or permittees within the City.~~

A. All collection vehicles with a diesel engine ~~shall~~must use a blend of biodiesel fuel as specified by the ~~City Administrator~~Director, consistent with the requirements set forth in Chapter 16.60.

B. Fleet Replacement. The intention of the clean and efficient fleet practices is to phase out vehicle emissions that contribute to unhealthy air for Portland residents and to reduce climate change impacts according to the Climate Action Plan.

1. All Collection Vehicles ~~must~~shall have engines that are 12 years old or newer. "Collection vehicles" that are intended as back-up collection vehicles and older than 12 years are allowed to be used less than 20 percent of a full-time vehicle's hours or miles.

2. Federal Emissions Improvement Adjustments. Due to emissions standard improvements to collection vehicles manufactured in 2010 or newer, collection vehicle restrictions will be adjusted accordingly:

a. As of January 1, 2023, all collection vehicles using diesel fuel ~~must~~shall have engines 13 years old or newer.

b. As of January 1, 2024, all collection vehicles using diesel fuel ~~must~~shall have engines 14 years old or newer.

c. As of January 1, 2025, all collection vehicles using diesel fuel ~~must~~shall have engines 15 years old or newer and older back up vehicles will no longer be acceptable and subject to infraction. Starting January 1, 2026 collection vehicle age restrictions will continue with a rolling 15-year timeframe for compliance.

d. As of January 1, 2025, all collection vehicles providing service to any Portland residential or commercial customer will adhere to the Clean and Efficient Fleet Practices. At this time, exemptions to collection vehicles serving less than 50 percent of Portland customers will be lifted.

3. Diesel Particulate Filter (DPF) Retrofits. Collection vehicles that have been retrofitted with a functioning DPF will not be required to be replaced until January 1, 2025. Diesel Oxidation Catalyst (DOC) retrofits on collection vehicles will not be required to be replaced until January 1, 2020.

17.102.060 Fees Credited to Solid Waste Management Fund.

~~(Amended by Ordinance 182671, effective May 15, 2009.)~~

A. All fees, assessments and interest received by the Bureau of Planning and Sustainability with respect to solid waste collection or disposal ~~shall~~will be deposited with the City Treasurer and credited to the Solid Waste Management Fund.

B. Monies deposited into the Solid Waste Management Fund ~~shall~~will be used for administration, implementation and operation of solid waste, recycling, composting and sustainable development programs, consistent with all applicable constraints on use of funds. BPS may spend or apply such fees and charges to implement and

administer solid waste, recycling, composting and sustainable development policies approved by the Council.

C. The proceeds from the City's sale of a forfeited franchise ~~shall~~will be deposited with the City Treasurer and credited to the Solid Waste Management Fund. Such proceeds ~~shall~~will be used to offset the City's costs of the process of replacing a franchisee, including its costs for providing any necessary temporary collection services, and to offset program costs to the public.

17.102.070 Fees As a Debt, Enforcement and Collection.

A. All fees, assessments and interest imposed by this Chapter ~~shall~~will be a debt due and owing to the City ~~of Portland~~ and may be collected by civil action in the name of the City ~~of Portland~~. Any fees and assessments remaining unpaid after the due date ~~shall~~will accrue interest at 1 percent per month, compounded daily from the due date. In addition, the ~~City Administrator~~Director may revoke, suspend or deny issuance of any commercial collection permit to permittees who have not paid commercial permit or tonnage fees or infraction assessments by the deadlines provided in this Chapter or in administrative rules adopted pursuant to this Chapter.

B. Fees, assessments and interest ~~shall~~will be enforced and collected by the ~~City Administrator~~Director. The ~~City Administrator~~Director may waive or reduce any assessments for good cause, according to and consistent with written policies. ~~The Director may refer collection and enforcement to another agency of the City.~~

17.102.080 Daytime Prohibition of Downtown Garbage Collection.

~~(Amended by Ordinance 189293, effective January 11, 2019.)~~

No person, whether acting as private citizen, principal, employee, agent, franchisee or permittee ~~shall~~may transport any refuse through streets in the district bounded by SW Oak Street, SW First Avenue, SW Yamhill Street and SW Tenth Avenue, except between the hours of 10 p.m. and 10 a.m. or when otherwise authorized by the City ~~Engineer~~Administrator, ~~or~~ a ~~City~~City police officer, ~~or the Director~~.

17.102.090 Assessments for Infractions.

A. The ~~City Administrator~~Director may impose assessments as follows:

1. A first violation of this Chapter may be subject to an assessment of up to \$500.
2. A second violation of this Chapter by the same person may be subject to an assessment of up to \$1,000.
3. Third and subsequent violations of this Chapter by the same person may be subject to an assessment of up to \$1,500.

4. Assessments may be imposed on a per month, per day, per incident, per class or such other basis as the ~~City Administrator~~Director may determine as appropriate based upon the nature of the infraction.

B. The ~~City Administrator~~Director ~~shall~~will consider the following criteria in determining the amount of assessments to be imposed under this Section:

1. The nature and extent of the person's involvement in the violation;
2. Whether the person was seeking any benefits, economic or otherwise, through the violation;
3. Whether the violation was isolated and temporary, or repeated and continuous;
4. The length of time from any prior violations;
5. The magnitude and seriousness of the violation;
6. The costs of investigation and remedying the violation;
7. Whether any criminal prosecutions have occurred in regard to the violations; and
8. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.

17.102.100 Right of Appeal and Payment of Assessments.

~~(Amended by Ordinances 184288 and 189293, effective January 11, 2019.)~~

A. Any person receiving a Notice of Assessment ~~must~~shall, within ten days of issuance of the notice either pay to the City the stated amount of the assessment or request an appeal hearing by the Code Hearings Officer in accordance with procedures set forth in Chapter 22.10 of ~~the~~Portland City Code. The filing of an appeal request ~~shall~~will stay the effective date of the assessment until the appeal is determined by the Code Hearings Officer. If, pursuant to said appeal hearing, payment of the assessment is ordered, such payment must be received by the City Administrator~~Director~~ or postmarked within 15 calendar days after the order becomes final.

B. A person may appeal to the Code Hearings Office in accordance with Title 22 of the~~Portland~~ City Code if the person receives:

1. A written denial of an application for a commercial collection permit;
2. Any written suspension or revocation of a commercial collection permit.

C. A business or property owner may appeal to the Code Hearings Office in accordance with Title 22 of ~~the~~Portland City Code if they receive a written denial of an application for a limited term extreme economic hardship exemption from the Containers in the Right of Way rules.

17.102.110 Divulging Particulars of Report Forms Prohibited.

~~(Amended by Ordinance 182671, effective May 15, 2009.)~~

A. Except as otherwise required by law, it ~~shall be~~is unlawful for the Bureau of Planning and Sustainability or any officer, employee, or agent of the City, to divulge, release or make known in any manner:

1. Any information submitted or disclosed to the City under Section 17.102.250; or,
2. Any information submitted or disclosed to the City by solid waste collectors regarding past hazardous waste remedial action surcharges.

B. Nothing in this Section ~~shall~~may be construed to prohibit:

1. The disclosure of the names and addresses of any persons to whom permits have been issued; or
2. The disclosure of general statistics in a form ~~that~~which would prevent the identification of financial information regarding any individual permittee.

17.102.120 Franchise Administration.

~~(Amended by Ordinance 182671, effective May 15, 2009.)~~

~~Notwithstanding Section 3.114.020, the Bureau of Planning and Sustainability shall be~~The City Administrator is responsible for administration of residential collection franchises.

17.102.130 Franchise Size Limit.

~~(Amended by Ordinance 184224, effective December 10, 2010.)~~

A. No franchisee ~~shall~~may serve residential customers greater than 40 percent of the residential customer base, as determined on a quarterly basis. For purposes of this Section, the Bureau of Planning and Sustainability will calculate the residential customer base and the residential customer cap using the most recent Quarterly Residential Customer Count Report, and ~~shall~~will keep this calculation on file for public reference.

B. No franchisee ~~shall~~may be a subsidiary corporation of another franchisee.

17.102.140 Residential Collection Franchise Required.

~~(Amended by Ordinance 189293, effective January 11, 2019.)~~

A. No person may collect residential solid waste, recyclable or compostable materials, within the City without having obtained a franchise from the City, except as provided in 17.102.150 or 17.102.170 of this Chapter.

B. Having obtained a franchise for residential solid waste, recyclable material and compostables collection from the City, no person ~~shall~~may provide or offer to provide such collection in an area within the City other than the assigned territory for which the franchise was issued.

C. No person ~~shall~~may accumulate, store collect, transport, dispose of or resource recover solid waste, recyclable materials or compostables, except in compliance with this Chapter, other city ordinances and regulations, and state laws dealing with solid waste management.

D. Nothing in this section ~~shall~~prohibits the City from withdrawing certain solid waste, recyclable materials or compostables collection services by amendment of this Chapter on the basis of finding that such change is appropriate.

E. No person other than an approved residential recycler may remove recyclable materials or compostables that are in or next to a residential recycling or compostables container set out at a residence.

F. As provided in Section 29.30.140, owners of rental housing ~~shall~~may not collect solid waste generated by their tenants. Owners of rental residences must arrange for collection by a franchisee.

17.102.150 Exceptions to Residential Franchise Requirement.

~~(Amended by Ordinances 189293 and 190573, effective November 5, 2021.)~~

A. A franchise is not required for the collection or transportation of residential solid waste, recyclable or compostable materials by the following persons:

- 1.** Persons transporting solid waste, recyclable materials, or compostables, collected outside the City;
- 2.** Organizations ~~that~~which have been granted non-profit tax status by the federal government or who are organized as non-profit corporations in accordance with ORS Chapter 61 (2007) and who collect residential recyclable materials or compostables without charge to the person who generates those recyclable materials or compostables;
- 3.** A contractor employed to demolish, construct or remodel a building or structure, including, but not limited to, land clearing operations and construction wastes, when collecting or transporting wastes created in connection with such employment;

4. Landscapers, gardeners, tree service contractors, janitors or renderers when collecting or transporting wastes created in connection with such employment;
5. Persons collecting and transporting waste produced by that person, except for waste produced by a tenant at a rental dwelling. For purposes of this Subsection, solid waste produced by a tenant, licensee, occupant or similar person is produced by that person and not by the landlord;
6. Persons collecting or transporting only waste tires under a valid waste tire storage or carrier permit pursuant to OAR Chapter 340;
7. Persons collecting deposit containers as defined in ORS 459A.700-744;
8. Federal or state agencies that collect, store, transport and dispose of solid waste or those who contract with such agencies to perform the service, but only insofar as the service is performed by or for such agencies;
9. Persons exclusively collecting recyclable materials or compostables, from non-residential sources.
10. An organization accepting, storing or transporting recyclable or compostable materials, if those materials are accepted and stored at a depot or depots ~~that~~^{which} accept recyclable or compostable materials without a charge to the generator of that recyclable or compostable material.
11. Persons collecting or transporting solid waste that is separated by the customer and that BPS determines is reusable or difficult to recycle but that still maintains some usefulness, including but not limited to plastic bags, textiles, and household batteries and light bulbs. This exception does not include recyclable materials collected by franchisees. Franchisees may provide this service, but any related costs the franchisee incurs is not an allowable expense in the residential rate-setting calculations; and,
12. Persons collecting or transporting clean-out materials as part of a one-time removal service provided to a residential or multifamily property. For purposes of this exception, "clean-out materials" are solid waste that is removed by a contracted person. Examples include, without limitation, used couches or the contents of a deceased person's home and garage. Clean-out materials do not include solid waste that is generated through the daily consumption of food and goods.

B. Persons whose collection or transportation activity falls exclusively within the exceptions listed in Subsection A. must comply with all applicable federal, state, regional and local laws, rules and regulations.

17.102.160 Forfeiture and Replacement.

~~(Amended by Ordinances 182671 and 189891, effective April 17, 2020.)~~

A. In the event that the ~~City Administrator~~Director finds grounds for declaring a forfeiture, according to the terms of the franchise awarded by Ordinance No. 181666 and as amended by subsequent ordinances, the ~~City Administrator~~Director shall will make a recommendation for Council action on the matter, following procedures specified in ~~the BPS's~~the City's adopted rules.

B. In preparing for the transfer of a forfeited franchise, the ~~City Administrator~~Director shall will solicit applications following a public notification. The ~~City Administrator~~Director will shall identify criteria to evaluate applicants' qualifications to assume the franchise responsibilities, such as related experience; technical, financial, and operational capability; equity and diversity; sustainability; resiliency; and efficiency. The ~~City Administrator~~Director may conduct an appraisal of the value of the forfeited franchise and give the selected applicant the opportunity to purchase the franchise from the City within a specified time period.

C. In cases where a franchisee abruptly ceases to provide collection service, and there is insufficient time to conduct an appraisal and permanently transfer a franchise, the ~~City Administrator~~Director may recommend that the Council appoint a temporary service provider. If the Council makes such an appointment, it may also guarantee a minimum level of revenue to that company, in order to encourage companies who would not otherwise be willing to assume this responsibility on a short-term basis. Such minimum level of revenue would be achieved by the City's supplementing revenues received by the temporary service provider from its temporary customers.

17.102.170 Residential Recycling Services.

~~(Amended by Ordinances 189293 and 189891, effective April 17, 2020.)~~

A. No person ~~shall may~~ provide residential recycling collection without first applying for and receiving approval as an approved residential recycler.

B. To have status as an approved residential recyclers an applicant must receive the City's approval of recycling collection and processing plans prior to initiation of collection service, and at subsequent times as provided in the administrative rules.

C. To receive approval as a residential recycler, the City must first approve an applicant's recycling collection and processing plans data through means detailed in the residential administrative rules.

D. To receive approval as an approved residential recycler, an applicant ~~shall must~~ submit a recycling collection and processing plans on forms provided by the ~~City Administrator~~Director and ~~shall must~~ include, at a minimum, the following information:

1. Number of residential households to be served;

2. Description of recycling collection equipment;
3. Address and City zoning classification of all processing/storage sites that relate to collection services provided in the City;
4. Description of all processing and storage activities that relate to collection services provided in the City;
5. List of markets where each recyclable material will be sold;
6. List of the number of staff, their positions and full-time equivalent (FTE) for each;
7. Address and phone number of office;
8. Cost of recycling collection and processing equipment, the financial institution used and type of financing obtained; and
9. Any subcontracted collection services, including the names of the providers, description of the services provided and the number of customers served.
10. Written consent of the franchisee in whose territory the applicant seeks to provide collection service.
11. Other information as deemed relevant and necessary by the City Administrator~~Director~~.

E. The City Administrator~~Director~~ shall will review the recycling collection and processing plans submitted by an applicant to determine if the plan sets out reasonable means and methods to deliver high quality recycling to City residents, and ~~that which~~ are capable of meeting administrative rule standards for residential recycling service delivery. The City Administrator~~Director~~ shall will notify the applicant of the decision on their status as an approved residential and any recommended modifications if approval is not given. Approved residential recyclers ~~must~~shall use recycling containers that meet the City Administrator~~Director~~'s specifications.

F. An applicant's failure to receive the City Administrator~~Director~~'s approval of a plan shall will result in denial of the City's permission for that applicant to provide recycling collection service and the appointment of another approved residential recycler by the City Administrator~~Director~~ to provide recycling collection service to those residential customers.

17.102.180 Franchise System Evaluation.

~~(Amended by Ordinance 182671, effective May 15, 2009.)~~

A. Periodically, the ~~City Administrator~~Director ~~shall~~will prepare and submit a report to the City Council on the status and performance of the franchise collection system. The report ~~shall~~will comment on progress toward achievement of the relevant goals identified in Section 17.102.010 and as otherwise described in BPS's budget documents.

B. Commencing at least five years prior to the expiration of the franchise term, the City Council ~~shall~~will evaluate the franchise system to determine if the system is achieving waste reduction, increased recycling, and cost-effective collection service. Such evaluation ~~shall~~will include an opportunity for public discussion and comment.

17.102.190 Residential Solid Waste and Recycling Rates and Charges.

~~(Amended by Ordinance 191743, effective July 1, 2024.)~~

For all service levels of franchised residential collection, rate schedules will be established via a rate ordinance adopted by the City Council.

17.102.200 Large Size Container Service to Residential Customers.

A. Any residential putrescible waste collected in containers exceeding two yards capacity ~~must~~shall be emptied within seven days of the empty container being placed at the residence.

B. Commercial permittees are prohibited from providing collection of any putrescible waste more than four times in a 365-day period to residential customers without the express written permission of the franchisee in whose territory the collection would be occurring.

C. Within the City, franchisees are prohibited from providing containers larger than two cubic yards ~~that~~which are emptied more than four times in a 365-day period to residential customers outside their franchise territory.

17.102.210 Commercial Collection Permit Required.

~~(Amended by Ordinances 182671, 189293 and 189891, effective April 17, 2020.)~~

A. No person ~~shall~~may provide commercial collection of solid waste, compostables and recyclable material within the City without having a currently valid commercial collection permit from the Bureau of Planning and Sustainability, except as provided in Section 17.102.220. Permits ~~shall~~will be issued annually, with the permit being valid for the period beginning July 1 and ending June 30. No expenditure of money, lapse of time or other act or thing, ~~shall~~will give the permittee any vested rights or other property rights.

B. The ~~City Administrator~~Director may impose conditions upon the issuance of a permit ~~that~~which are necessary to implement the provisions of this Chapter or

administrative rules promulgated under Section 17.102.030. Conditions ~~shall~~may include but are not ~~be~~-limited to:

1. Permittees must comply with the provisions of this Chapter and administrative rules promulgated under Section 17.102.030.
 2. If a permittee provides solid waste collection services to a customer, the permittee must offer recycling collection services to the customer. The permittee ~~must~~shall also offer compostable material collection services to a customer that is a covered food scrap generating business subject to the requirements of Subsection 17.102.270 A.1.c.
 - a. Permittees may provide recycling and compostable material collection services either directly or through third-party providers. Where a permittee provides such services through a third party provider, the permittee ~~shall~~be responsible for reporting to the City the quantities of all materials collected by that provider on its behalf within the City.
 - b. In providing recycling and compostable material collection services, permittees ~~must~~shall use containers that comply with the City's administrative rules.
 3. If the ~~City Administrator~~Director determines that a permittee is delivering as waste, loads containing significant amounts of recyclable materials to a transfer station, reload, or landfill, the ~~City Administrator~~Director ~~shall~~will work with the permittee to identify customers on the routes serviced in those loads for the purpose of providing customer outreach, assistance and education.
 4. Permittees may charge a person who source separates recyclable material - and makes it available for reuse or recycling - less, but not more, for collection and disposal of solid waste and collection of recyclable material than the collection service charges a person who does not source separate recyclable material. This subsection does not affect charges for the collection of food scraps.
- C.** Any person who provides commercial collection of solid waste within the City without a current commercial collection permit from the City ~~shall~~will be subject to an assessment as provided by Section 17.102.090.
- D.** No person who is not authorized by the customer may remove recyclable material that is set out by the customer for recycling.
- E.** As provided in Section 29.30.140, owners of rental housing ~~shall~~may not collect solid waste generated by their tenants. Owners of multifamily complexes must arrange for collection by a permittee.

17.102.220 Exceptions to Commercial Collection Permit Requirement.

~~(Amended by Ordinance 189891, effective April 17, 2020.)~~

A commercial collection permit is not required for the collection or transportation of commercial solid waste by any of the following:

- A.** Persons transporting solid waste collected outside the City;
- B.** A contractor employed to demolish, construct or remodel a building or structure, including, but not limited to, land clearing operations and construction wastes, when collecting or transporting wastes created in connection with such employment. However, any subcontracted service employed exclusively to collect and transport construction wastes, is required be a current commercial permittee and subject to all fees associated with waste hauling in ~~the City of~~ Portland;
- C.** Landscapers, gardeners, farmers, tree service contractors, janitors or renderers when collecting or transporting wastes created in connection with such employment;
- D.** Persons collecting or transporting only waste tires under a valid waste tire storage or carrier permit pursuant to OAR Chapter 340;
- E.** Persons transporting only reusable beverage containers as defined in ORS 459A.725 (2007);
- F.** Federal or state agencies that collect, store, transport and dispose of solid waste or those who contract with such agencies to perform the service, but only insofar as the service is performed by or for such agencies; and
- G.** Persons exclusively collecting recyclable or compostable materials from anyone other than residential customers. However, persons exclusively collecting commercial food scraps are not exempt.

17.102.230 Applications for Commercial Collection Permits, Issuance, Denial.

~~(Amended by Ordinances 184288 and 189293, effective January 11, 2019.)~~

- A.** Applications for commercial collection permits required by Chapter 17.102 ~~must~~shall be submitted to the ~~City Administrator~~Director. The ~~City Administrator~~Director ~~shall~~will prepare application forms and make them available upon request.
- B.** Each application for a commercial collection permit ~~must~~shall be accompanied by a nonrefundable fee of \$350.
- C.** An applicant for a commercial collection permit ~~must~~shall submit an application that sets forth the following information:

1. The name, address and telephone number of the business or proposed business;
2. Whether the applicant is organized as a sole proprietorship, partnership, limited partnership, family limited partnership, 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;
 - a. If a partnership, the application must set forth the names, addresses and telephone numbers of each general or managing partner.
 - b. If a corporation, or limited liability company, the application must set forth the corporate or company name and the names, addresses and telephone numbers of every person owning more than twenty percent of the business;
 - c. If the business is organized in some other form, the application must set forth the name, address and telephone number of the designated contact person for the business.
3. A City ~~of Portland~~ business license number.
4. A signed statement that the permittee ~~shall will~~ hold ~~harmless~~ the City of ~~Portland, and~~ its officers and employees ~~harmless~~ and ~~shall will~~ indemnify the City ~~of Portland, and~~ its officers and employees ~~ffrom and against~~ any claims for damage to property or injury to persons ~~that which~~ may be occasioned by any activity carried on under the terms of the commercial collection permit. Permittee ~~must shall~~ furnish and maintain such public liability, food products liability, and property damage insurance as will protect permittee, property owners, and City from all claims for damage to property or bodily injury, including death, ~~that which~~ may arise from operations under the permit or in connection therewith. Such insurance ~~must shall~~ provide General Liability coverage insurance with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury and property damage. Such insurance ~~must shall~~ be without prejudice to coverage otherwise existing therein, and ~~must shall~~ name as additional insured ~~entitiess~~ the City of ~~Portland, and its~~ ~~their~~ officers and employees with respect to the permittee's activities carried on under the terms of the commercial collection permit, and ~~must shall~~ further provide that the policy ~~shall may~~ not terminate or be canceled prior to the completion of the contract without 30 days written notice to the Auditor.
5. Any other information that the ~~City Administrator~~ ~~Director~~ may reasonably feel is necessary to accomplish the goals of this Chapter.

D. Applications ~~must~~shall contain a written declaration, verified by the applicant, to the effect that the statements made therein are true.

E. Applications ~~must~~shall contain written demonstration of adequate staff, equipment and collection vehicles necessary to provide services as required under Subsection 17.102.210 B.2.

F. The ~~City Administrator~~Director may investigate and verify data reported in the permit application.

G. The permittee ~~must~~shall provide written notice to the ~~City Administrator~~Director within 10 days of any changes in the information provided in the application that occurs after the application is submitted.

H. The ~~City Administrator~~Director ~~shall~~will approve issuance of a commercial collection permit to the applicant after payment of the required fee, completion of the application form and following an evaluation of the information provided with the application. The ~~City Administrator~~Director may deny the issuance of a commercial collection permit to an applicant under the following conditions:

1. The permit application contains falsehoods or facts that cannot be verified;
2. The applicant has failed to pay fees, assessments and interest as provided in Chapter 17.102;
3. The applicant has been found by a court of competent jurisdiction to have practiced fraud or deceit upon the City; or,
4. The applicant has had their permit revoked during the two years prior to the application. For purposes of this section, "applicant" includes any individual who was a managing partner, or who owned or controlled more than 20 percent of the voting interests in the permittee whose permit was revoked.

I. There ~~shall be~~is no right to renewal of a commercial collection permit; each application ~~shall~~will be considered as it would be for a new permit notwithstanding that the applicant has previously been issued a permit.

J. Denial of an application may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of ~~the~~Portland City Code.

17.102.240 Revocation or Suspension of Commercial Collection Permits.

~~(Amended by Ordinances 184288, 189293 and 189891, effective April 17, 2020.)~~

A. The ~~City Administrator~~Director may suspend or revoke a commercial collection permit under the following conditions:

1. One or more of the permit conditions is being violated;
2. The permittee is in violation of any of the provisions of this Chapter or the commercial administrative rules for solid waste and recycling.
3. The permittee has failed to pay fees and assessments as provided in Chapter 17.102.
4. The permittee has been found by a court of competent jurisdiction to have practiced fraud or deceit upon the City.

B. The ~~City Administrator~~Director ~~shall~~will consider the following criteria in determining whether to revoke or suspend the commercial collection permit due to violations of the provisions of this Chapter or the commercial administrative rules for solid waste and recycling:

1. The nature and extent of the permittee's involvement in the violation;
2. Whether the permittee was seeking any benefits, economic or otherwise, through the violation;
3. Whether the violation was isolated and temporary, or repeated and continuous;
4. The magnitude and seriousness of the violation;
5. The relative harms of continued collection service from the permittee and the potential for service disruption;
6. Whether any criminal prosecutions have occurred in regard to the violations; and
7. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.

C. Revocation or suspension of a permit may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of ~~the~~Portland City Code.

17.102.250 Commercial Tonnage Fee.

~~(Amended by
Ordinances 183828, 185349, 187771, 189037, 190844, 191301 and 191743,
effective July 1, 2024.)~~

Commercial permittees will, when invoiced quarterly by the City Administrator~~Director~~, pay a tonnage fee to the City. Fees will be assessed on a per ton basis of commercial solid waste collected within the City and deposited in

disposal facilities authorized by Metro. The per ton fee will be established via a rate ordinance adopted by the City Council. Payments must be made within 30 days of the date of the invoice. Interest will accrue at 1 percent per month on balances ~~that~~^{which} remain unpaid as of 30 days after the date of invoice, compounded daily from the due date.

17.102.260 Registration Required for Independent Commercial Recyclers.

~~(Amended by Ordinances 182671 and 189891, effective April 17, 2020.)~~

A. No person ~~shall~~^{may} provide collection service as an independent commercial recycler within the City without having registered with the Bureau of Planning and Sustainability, by providing BPS with a copy of their City ~~of Portland~~ Business License, with their Business License number, or with a copy of their current annual Business License exemption application or request submitted to the revenue service and program of the City Administrator~~City's Revenue Bureau~~.

B. All independent commercial recyclers who collect at least 25 tons of recyclables and/or yard debris in the City per year ~~must~~^{shall} report quarterly to BPS on the amounts of recyclables collected in the City, on forms provided by BPS. If a person only collects food scraps from commercial sources, that person is required to be a commercial permittee.

17.102.270 Businesses and Multifamily Complexes Required to Recycle.

~~(Amended by Ordinance 189293, effective January 11, 2019.)~~

A. Waste Prevention and Recycling Requirements.

1. To achieve the City's waste prevention and recycling goals as set forth in Section 17.102.010, all businesses within the City ~~must~~^{shall} comply with waste prevention, recycling and composting requirements as set forth in the administrative rules established by the City Administrator~~Director~~. The following recycling requirements ~~shall beare~~ in effect:

- a. All businesses and multifamily complexes ~~must~~^{shall} recycle 75 percent of the solid waste they produce;
- b. All businesses ~~must~~^{shall} recycle all of their paper and containers. For the purposes of this Section, containers means all recyclable metal, plastic and glass containers;
- c. Covered food scraps generating businesses ~~must~~^{shall} separate their food scraps for collection.
- d. For all building projects within the City where the total job cost (including both demolition and construction phases) exceeds \$50,000, the general contractor ~~must~~^{shall} ensure that 75 percent of the solid

waste produced on the job site is recycled. In addition, certain materials generated on the job site ~~must~~shall be recycled in compliance with administrative rules established by the ~~City Administrator~~Director. For an affected building project where there is no general contractor, this requirement applies to the property owner is the person responsible for ensuring compliance with the recycling requirements.

2. Commercial customers that provide garbage collection service to business tenants as part of their rental/lease, ~~must~~shall provide recycling and, where appropriate, compostable collection systems that will enable the business tenants to recycle in compliance with administrative rules established by the ~~City Administrator~~Director.

3. All multifamily complexes within the City ~~must~~shall establish recycling systems for their tenants' use, in compliance with administrative rules established by the ~~City Administrator~~Director.

B. The ~~City Administrator~~Director may monitor compliance with the requirements of Subsection A by reviewing available information including, but not limited to, information reported by the customers on their recycling activities, as well as onsite inspections.

C. Any business or any other person may sell or exchange at fair market value its own recyclable materials ~~that~~which are source-separated for reuse or recycling. This Chapter and any administrative rules promulgated ~~here~~under ~~them~~ are not intended to limit the ability of any person to compete openly to provide recycling collection service to businesses within ~~the City of~~ Portland.

17.102.280 Inspections to Determine Compliance with Business Recycling Requirements.

A. The ~~Director~~City Administrator ~~shall be~~is responsible for the administration and enforcement of Section 17.102.270 relating to recycling goals for businesses and multifamily complexes. In furtherance of these responsibilities, the ~~Director~~City Administrator ~~shall have the authority to~~may inspect sites, buildings and other structures and equipment for compliance with Section 17.102.270. The ~~City Administrator~~Director ~~shall will~~ establish a program for the periodic inspection of businesses and multifamily complexes for compliance with these requirements. The program ~~shall will~~ identify the frequency, priority and types of inspections, subject to the availability of staff and budgeted funds.

B. Right of Entry. The ~~City Administrator~~Director may enter the premises of any business or multifamily complex, except private residences, between the hours of 9:00 am and 5:00 pm on any business day to conduct inspections for the purpose of determining compliance with recycling requirements established pursuant to Section 17.102.270. The ~~City Administrator~~Director ~~shall will~~ first present proper credentials

and request entry. If entry is refused, the ~~City Administrator~~Director may attempt to gain entry by obtaining an inspection warrant. Failure to respond to repeated requests may constitute refusal for entry. For the purposes of Section 17.102.280, the premises ~~shall~~ include the common areas of the business or multifamily complex used to store solid waste, recycling or compostable materials.

C. Warrants. Whenever an inspection is necessary to determine compliance with Section 17.102.270 and the ~~City Administrator~~Director has been refused entry, the ~~City Administrator~~Director may apply to any Circuit Court judge to obtain an inspection warrant for the inspection of the premises of a business or multifamily complex. The inspection warrant is a court order authorizing entry onto the premises of a business or multifamily complex for the purposes of conducting an inspection to determine compliance with the requirements of Section 17.102.270.

D. Grounds for Issuance of Inspection Warrants; Affidavit.

1. Affidavit. An inspection warrant ~~shall~~may be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the inspection warrant, the applicable code sections or regulation requiring or authorizing the inspection, the property to be inspected and the purpose for which the inspection is to be made including the basis upon which cause exists to inspect. In addition, the affidavit ~~must~~shall contain either a statement that entry has been sought and refused.

2. Cause. Cause ~~shall~~will be deemed to exist if the affidavit demonstrates that:

a. The inspection is authorized pursuant to reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to the premises of a business or multifamily complex;

b. There is a reasonable basis for believing that a condition of nonconformity with Section 17.102.270 exists with respect to the designated property; or,

c. An inspection is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with any of the requirements of Section 17.102.270 or any regulations promulgated pursuant thereto.

E. Procedure for Issuance of Inspection Warrant.

1. Examination. Before issuing an inspection warrant, the judge may examine under oath the applicant and any other witness and ~~shall~~will be satisfied of the existence of grounds for granting such application.

2. Issuance. If the judge is satisfied that cause for the inspection exists and that the other requirements for granting the application are satisfied, the judge ~~shall~~may issue an inspection warrant, particularly describing the person or persons authorized to execute the inspection warrant, the property to be entered and the purpose of the inspection. The inspection warrant ~~must~~shall contain a direction that it be executed on any business day between the hours of 9:00 a.m. and 5:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

3. Police Assistance. In issuing an inspection warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to assist the person authorized to execute the inspection warrant in any way necessary to complete the inspection.

F. Execution of Inspection Warrants

1. In executing an inspection warrant, the person authorized to execute the warrant ~~must~~shall, before entry into any occupied premises of a business or multifamily complex, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the premises of the business or the multifamily complex designated in the inspection warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. The person authorized to execute the warrant ~~must~~shall leave a copy of the inspection warrant at the premises.

2. Return. The inspection warrant must be executed within 10 working days of its issue. The return of warrant must be submitted 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 inspection warrant ~~shall~~will be void unless it has been timely executed.

17.102.290 Storing Solid Waste, Recycling or Compostable Containers in the Right of Way Prohibited.

~~(Amended by Ordinances 182671, 184288 and 189293, effective January 11, 2019.)~~

A. No person may store, or cause to be stored, containers of solid waste, recycling or compostables in public right-of-way without a permit from the City ~~Engineer, the City Traffic Engineer, or the Bureau of Planning and Sustainability~~Administrator. For the purposes of this Section, storage means leaving containers in the right of way for more than 2 hours either before or after collection during normal business hours. If collection occurs after normal business hours, containers may be placed in the right of way at the close of business but must be removed from the right of way by the start of the following business day or within 24 hours of set out, whichever occurs first.

B. The ~~City Administrator~~Director may provide exemptions from Subsection A. for extreme economic hardship. Criteria for eligibility ~~shall be~~ based upon such factors as financial hardship for the property or business owner, conditions related to the property and resources necessary to provide adequate on-site, interior storage space for garbage and recycling containers. Exempted property ~~shall be~~ subject to the requirements of this Section following the termination of the hardship exemption. Exemptions ~~shall may~~ be for no more than two years. Exemptions may be renewed upon reapplication by the property owner or business owner, after a re-evaluation of eligibility by the ~~City Administrator~~Director. Exemptions ~~shall be~~ personal to the property or business owner, and ~~shall are~~ not ~~be~~ assignable, transferable or otherwise ~~be~~ conveyable. Exempted property ~~shall be~~ subject to the requirements of Subsection A. following expiration of any hardship exemption granted by the ~~City Administrator~~Director.

C. The ~~City Administrator~~Director ~~shall will~~ develop administrative rules and procedures for determining extreme economic hardships under Subsection B., using the process under Section 17.102.030. The ~~City Administrator~~Director ~~shall will~~ also adopt standards for space requirements for storage of containers of solid waste, recycling or compostables in new construction and when major alterations are made to existing buildings.

D. The Bureau of Planning and Sustainability may charge fees to business and property owners who apply for an extreme economic hardship exemption to recover costs of administering the exemption program. All fees are stated in the Fee Schedule adopted by City Council. Fees will be updated on an as needed basis. The approved Fee Schedule is available through the Bureau of Planning and Sustainability.

E. Denial of a request for exemption for extreme economic hardship may be appealed to the Code Hearings Officer in accordance with procedures set for in Chapter 22.10.

17.102.295 Separation of Recyclables, Compost and Solid Waste.

~~(Added by Ordinance 185452, effective July 21, 2012.)~~

It ~~shall be~~ a violation of Chapter 17.102 for any customer to:

A. Place in a recycling cart, recycling container or recycling bin any plastic bag, diapers, pet waste, Styrofoam, wood, food, yard debris, or any Solid Waste; or,

B. Place in a compost cart or compost container any plastic bag, diapers, pet waste, Styrofoam, or any Solid Waste.

17.102.300 Definitions for Ban of Polystyrene Foam Food Containers (PSF).

~~(Repealed by Ordinance 189271, effective January 4, 2019.)~~

~~17.102.310 Prohibition on Certain PSF Uses.~~

~~(Repealed by Ordinance 189271, effective January 4, 2019.)~~

~~17.102.320 Exemptions for PSF Use.~~

~~(Repealed by Ordinance 189271, effective January 4, 2019.)~~

~~17.102.330 Enforcement and Notice of Violations for PSF Ban.~~

~~(Repealed by Ordinance 189271, effective January 4, 2019.)~~

~~17.102.340 Fines for PSF Ban.~~

~~(Repealed by Ordinance 189271, effective January 4, 2019.)~~

Chapter 17.103 Prohibition and Restrictions on Single-Use Plastic

~~(Chapter replaced by Ordinance 189271, effective January 4, 2019.)~~

17.103.100 Definitions for Prohibition on Polystyrene Foam Food Containers (PSF).

As used in Sections 17.103.100 through 17.103.120, the following terms have the following meanings:

- A.** ~~“Food vendor”~~ means any restaurant or retail food vendor.
- B.** ~~“Food packager”~~ means any person, located within the cCity of Portland, who places meat, eggs, bakery products, or other food in packaging materials for the purpose of retail sale of those products.
- C.** ~~“Nonprofit food provider”~~ means a recognized tax-exempt organization which provides food as a part of its services.
- D.** ~~“Prepared food”~~ means food or beverages ~~which~~ that are served on the vendor's premises without preparation, or are prepared on the vendor's premises by cooking, chopping, slicing, mixing, brewing, freezing, or squeezing. Prepared food does not include any raw uncooked meat or eggs. Prepared food may be eaten either on or off the premises.
- E.** ~~“Person”~~ means any natural person, firm, corporation, partnership, or other organization or group, however organized.
- F.** ~~“PSF”~~ means any material composed of polystyrene and having a closed cell air capacity of 25 percent or greater, or a density of less than 0.787 grams per cubic

centimeter based on an average polystyrene density of 1.05 grams per cubic centimeter, as determined by an analytical testing laboratory.

G. "Restaurant" means any establishment, including sidewalk food vendors, located within the Ccity of Portland, and that selling prepared food to be eaten by customers. ~~Restaurant includes a sidewalk food vendor.~~

H. "Retail Food Vendor" or "Vendor" means any store, shop, sales outlet, or other establishment, including a grocery store or a delicatessen, located within the cCity of Portland, ~~which~~ and that provides prepared food.

17.103.110 Prohibition on Certain PSF Uses.

On and after January 1990, no restaurant or retail food vendor ~~shall~~ may serve prepared food in any PSF products.

17.103.120 Exemptions for PSF Use.

The ~~City Council, or its appointee,~~ City Administrator may exempt a food vendor, food packager, or nonprofit food provider from the requirements of Portland Citythis Code for a one-year period, upon a showing by the applicant that the conditions of this ~~Code Chapter~~ would cause undue hardship. The phrase "undue hardship," ~~shall be construed to include,~~ but is not ~~be~~ limited to:

A. Situations where there are no acceptable alternatives to PSF packaging for reasons ~~which~~ that are unique to the vendor or provider;

B. Situations where compliance with the requirements of Portland Citythis Code would deprive a person of a legally protected right. If a request for exemption is based upon a claim that a legally protected right would be denied if compliance were required and such request for exemption is denied, review of the denial ~~shall~~ may only be by writ of review as provided for in ORS 34.010 to 34.102 ~~and not otherwise.~~

17.103.200 Purpose for Prohibition on Single-Use Plastic Checkout Bags.

The purpose for the prohibition on single-use plastic checkout bags is to regulate the distribution of plastic bags at retail and food establishments. The distribution of plastic bags has significant, on-going harmful impacts upon the environment, including;

A. Plastic bags are a major source of litter.

B. When littered, the material is detrimental to wildlife that ingests it.

C. The materials used in plastic bags are persistent in the environment.

17.103.210 Definitions for Prohibition on Single-Use Plastic Checkout Bags.

~~(Replaced by Ordinance 189797, effective December 18, 2019.)~~

A. “Garment bag” means a large bag that incorporates a hanger on which garments may be hung to prevent wrinkling during travel or storage.

B. “Recycled paper checkout bag” means a paper bag that contains at least 40 percent post-consumer recycled fiber.

C. “Restaurant” means an establishment where the primary business is the preparation of food or drink:

1. For consumption by the public;
2. In a form or quantity that is consumable then and there, whether or not it is consumed within the confines of the place where prepared; or
3. In consumable form for consumption outside the place where prepared.

D. “Retail establishment” means a store that sells or offers for sale goods at retail and that is not a restaurant.

E. “Reusable fabric checkout bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth or other machine-washable fabric.

F. “Reusable plastic checkout bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of durable plastic that is at least four mils thick.

G. “Single-use checkout bag”:

1. means a bag made of paper, plastic or any other material that is provided by a retail establishment to a customer at the time of checkout, and that is not a recycled paper checkout bag, a reusable fabric checkout bag or a reusable plastic checkout bag.

2. does not mean:

- a. A bag that is provided by a retail establishment to a customer at a time other than the time of checkout, including but not limited to bags provided to:

- (1) Package bulk items such as fruit, vegetables, nuts, grains, greeting cards or small hardware items, including nails, bolts or screws;

(2) Contain or wrap frozen food, meat, fish, flowers, a potted plant or another item for the purpose of addressing dampness or sanitation;

(3) Contain unwrapped prepared food or a bakery good; or

(4) Contain a prescription drug;

b. A newspaper bag, door hanger bag, garment bag, laundry bag or dry cleaning bag; or

c. A bag sold in a package containing multiple bags for uses such as food storage, garbage containment or pet waste collection.

17.103.220 Prohibition on Single-Use Plastic Checkout Bag Regulation.

~~(Replaced by Ordinance 189797, effective December 18, 2019.)~~

A. Except as provided in Subsection 17.103.220 B., a retail establishment may not provide:

1. Single-use checkout bags to customers.

2. Recycled paper checkout bags, reusable fabric checkout bags or reusable plastic checkout bags to customers unless the retail establishment charges not less than 5 cents for each recycled paper checkout bag, reusable fabric checkout bag or reusable plastic checkout bag.

B. A retail establishment may provide:

1. Reusable fabric checkout bags at no cost to customers as a promotion on 12 or fewer days in a calendar year.

2. Recycled paper checkout bags or reusable plastic checkout bags at no cost to customers who:

a. Use a voucher issued under the Women, Infants and Children Program established under ORS 413.500.

b. Use an electronic benefits transfer card issued by the Department of Human Services.

C. Except as provided in Subsection 17.103.220 D., a restaurant may not provide:

1. Single-use checkout bags to customers.

2. Reusable plastic checkout bags to customers unless the restaurant charges not less than 5 cents for each reusable plastic checkout bag.

D. A restaurant may provide:

1. Recycled paper checkout bags at no cost to customers.
2. Reusable plastic checkout bags at no cost to customers who use an electronic benefits transfer card issued by the Department of Human Services.

17.103.300 Definitions for Restrictions on Single-Use Plastic Serviceware.

~~(Amended by Ordinance 189537, effective July 5, 2019.)~~

As used in Sections 17.103.300 through 17.103.320, the following terms have the following meanings:

- A.** “Condiment Packaging” means plastic packaging used to deliver single-serving condiments to customers. This includes but is not limited to single-serving plastic packaging for ketchup, mustard, relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly and jam and soy sauce.
- B.** “Counter Service” is when food with ordered by the customer at a counter and is either picked up at the counter by the customer or delivered to the table by restaurant staff.
- C.** “Customer” means every person who purchases food or beverage that is intended to be consumed using single-use Plastic Serviceware.
- D.** “Dine-in” means food and beverage that are intended to be consumed inside the place of business where the food and beverage were purchased, including without limitation cafeterias and food halls.
- E.** “Electronic Orders” are food purchases conducted by smart phone, email or the website of a Retail Food and Beverage Establishment. This includes electronic ordering services that are independent of the retail food and beverage establishment.
- F.** “Fast Food” is food that can be prepared quickly and easily and is sold in Retail Food and Beverage Establishments as a quick meal or to be taken out for consumption. Fast food includes drive through, take-out and delivery orders and applies to orders transacted in person, by phone or electronically.
- G.** “Cafeterias” are dine-in areas within corporations, government, education and medical institutions. Cafeterias include ones managed by the institution or contracted food services.
- H.** “Plastic Serviceware” means single-use plastic straws, stirrers, Utensils and Condiment Packaging. This includes compostable and biodegradable plastic (petroleum or biologically based polymer) serviceware, but does not include

serviceware that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

I. “Retail Food and Beverage Establishments” means any retail business that provides single-use Plastic Serviceware as a component of the product delivery. This includes but is not limited to full service and limited service (or fast food) restaurants, food carts, bars, coffee and tea shops, grocery stores, convenience stores, hotels, motels, caterers and food service contractors.

J. “Utensils” are single-use plastic utensils intended for consumption of food, ~~which include~~ but are not limited to spoons, forks, knives, sporks, and chopsticks.

17.103.310 Restrictions on Single-Use Plastic Serviceware.

~~(Amended by Ordinance 189537, effective July 5, 2019.)~~

A. As of October 1, 2019, all Retail Food and Beverage Establishments and Cafeterias, where beverages may be consumed at Dine-in areas, ~~shall~~ must provide Plastic Serviceware only after Customer request.

B. As of October 1, 2019, all Retail Food and Beverage Establishments and Cafeterias, where Customers order Fast Food, take-out, or delivery, ~~shall~~ must provide Plastic Serviceware to Customers only after asking if the Customer needs Plastic Serviceware and the Customer responds affirmatively. For Electronic Ordering, the Retail Food and Beverage Establishments are responsible for coordinating with any outside ordering service to prompt the Customer to select Plastic Serviceware.

C. Exemptions. The following situations are considered exempt from the restriction on single-use Plastic Serviceware:

1. Cafeterias and Retail Food and Beverage Establishments designed for counter service may allow Customers to access a self-service station for plastic Utensils.
2. When the Plastic Serviceware is attached to or packaged by the manufacturer with a beverage container before the beverage container is offered for retail sale. For example, juice boxes.
3. When the product includes an ingredient packaged with single-use Plastic Serviceware. For example, a separate plastic container of dressing included within a larger salad container.
4. When free or reduced-price meals are provided as part of a social service to vulnerable populations, including without limitation, free or reduced-price meals provided by school systems, homeless shelters and programs that deliver meals to the elderly.

17.103.400 Authority of ~~Director~~ the City Administrator to Adopt Rules.

A. The ~~Director is hereby authorized to~~City Administrator administers and enforcess the provisions of this Chapter.

B. The City Administrator may adopt administrative rules as authorized by Charter.~~Director is authorized to adopt rules, procedures, and forms to implement the provisions of this Chapter.~~

~~1. Any rule adopted pursuant to this Section shall require a public review process. Not less than 10 nor more than 30 days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.~~

~~2. During the public review, the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendations, taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. If a substantial modification is made, the Director shall conduct additional public review, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed with the City Auditor's Portland Policy Documents repository.~~

~~3. An interim rule may be adopted by the Director without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than one year (365 days). Within 5 business days of the adoption of an interim rule, the Director shall send notice of the rule to all of the following, giving the language of the rule change, describing the purpose of the rule, and inviting the submission of comments:~~

~~a. Neighborhood Associations recognized by the City Office of Community & Civic Life;~~

~~b. District Coalitions recognized by the City Office of Community & Civic Life;~~

~~c. Business District Associations identified by the City Office of Community & Civic Life; and~~

~~d. Persons on the Bureau of Planning and Sustainability list of parties interested in administrative rules.~~

17.103.410 Enforcement and Penalties.

A. Violations of this Chapter ~~17.103 shall~~are be subject to the following:

1. Upon the first violation, the ~~Director~~ City Administrator ~~shall~~ may issue a written warning notice to the violator that a violation has occurred.
2. Upon subsequent violations, the following penalties ~~shall~~ will apply:
 - a. \$100 for the first violation after the written warning in a calendar year;
 - b. \$200 for the second violation in the same calendar year; and
 - c. \$500 for any subsequent violation within the same calendar year.
3. No more than one penalty ~~shall~~ may be imposed upon any single location within a 7-day period.

B. Upon making a determination that a violation of ~~Portland City C~~ this code or regulations duly adopted pursuant to this Chapter 17.103 has occurred, the ~~City Administrator~~ Director will send a written notice of the violation by mail to the violator specifying the violation and the applicable penalty as set forth in Subsection A.

C. Any violator receiving a notice of violation must pay to the City the stated penalty or appeal the finding of a violation to the Code Hearings Officer in accordance with the procedures set forth in Section 22.10.030.

17.103.420 Severability.

If any Section, Subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional, such decision ~~shall~~ will not affect the validity of the remaining portions of this Chapter. The Council declares that it would have passed this Chapter, and each Section, Subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more Sections, Subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional ~~and, if for any reason this Chapter should be declared invalid or unconstitutional, then the remaining Section, Subsection, sentence, clause or phrases shall be in full force and effect.~~

Chapter 17.104 Commercial Building Energy Performance Reporting

~~(Chapter added by Ordinance 187095, effective May 22, 2015.)~~

17.104.010 Purpose.

The purpose of this Chapter is to provide information about building energy performance and motivate investment in efficiency improvements that save energy and reduce carbon emissions. This Chapter ~~shall be~~ is known as the Commercial Building Energy Performance Program.

17.104.020 Definitions.

For purposes of this Chapter, and administrative rules adopted under this Chapter, the following words and phrases ~~shall~~must be construed as defined in this Section.

A. “Covered building” means any commercial building containing a gross floor area of at least 20,000 square feet and predominantly used for office, retail, grocery, health care, higher education and hotel purposes. “Covered building” does not include buildings predominantly used for housing, industrial, nursing home, parking, primary and secondary education, residential, warehouse and worship purposes.

B. “Director” means the Director of the Bureau of Planning and Sustainability or ~~his or her~~their authorized representative, designee or agent.

C. “Energy” means electricity, natural gas, steam, heating oil, or other product sold for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.

D. “ENERGY STAR” score means the 1 to 100 numeric rating generated by the ENERGY STAR Portfolio Manager tool that compares the relative energy usage of the building to that of similar buildings, where available.

E. “Energy performance information” means information related to a building’s energy consumption as generated by the ENERGY STAR Portfolio Manager tool, and descriptive information about the physical building and its operational characteristics.

F. “ENERGY STAR Portfolio Manager” means a software program developed for evaluating and managing building energy data, used for creating an ENERGY STAR score.

G. “Energy use intensity (EUI)” means a numerical value calculated by the ENERGY STAR Portfolio Manager that represents the annual site energy consumed by a building relative to its gross floor area, reported as thousand British thermal units per square foot (kBtu/sf).

H. “Gross floor area” means the total number of enclosed square feet measured between the principal exterior surfaces of the fixed walls of a building.

I. “Owner” means any of the following:

1. Any individual or entity possessing title to a property with one or more covered buildings;
2. The net lessee in the case of a building or property subject to a triple net lease;

3. The association of unit owners responsible for overall management in the case of a condominium; or

4. Any agent designated to act on behalf of a building or property owner.

J. **“Shared Utility Services”** means energy-related services such as electricity, natural gas, chilled water, heated water or steam serving two or more buildings from a centralized system or a single utility billing meter.

K. **“Tenant”** means a person or entity occupying or holding possession of any part of a building or premises pursuant to a rental or condominium agreement.

L. **“Utility”** means an entity that distributes and sells natural gas, electric, or thermal energy services to covered buildings.

17.104.030 ~~Authority of Director to Adopt~~Administrative Rules.

The City Administrator may adopt administrative rules as authorized by Charter.

~~A. The Director is hereby authorized to administer and enforce provisions of this Chapter.~~

~~B. The Director is authorized to adopt rules, procedures, and forms to implement the provisions of this Chapter.~~

~~1. Any rule adopted pursuant to this Section shall require a public review process. Not less than 10 nor more than 30 days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.~~

~~2. During the public review, the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendations; taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director and with the City Auditor's Portland Policy Documents repository.~~

17.104.040 Energy Performance Tracking and Reporting for Covered Buildings.

A. No later than April 22nd of each year, the owner of a covered building ~~shall~~must accurately report energy performance information of such building to the ~~Director~~ City Administrator for the previous calendar year using ENERGY STAR Portfolio Manager. At a minimum, the energy performance information ~~must~~shall include:

1. Building address;
2. Year of construction;
3. Primary use type and additional use types;
4. Gross floor area as defined by ENERGY STAR Portfolio Manager's glossary;
5. ENERGY STAR score, where available;
6. Site energy use intensity (Site EUI);
7. Source energy use intensity (Source EUI);
8. Weather-normalized Site EUI;
9. Weather-normalized Source EUI; and
10. Total annual greenhouse gas emissions.

B. Optional energy performance information may be reported annually by the owner of a covered building to the [City Administrator](#)~~Director~~, including but not limited to:

1. Contextual information related to energy use in the building; and
2. Verification of energy performance information in this section by a professional engineer or a registered architect licensed in the State of Oregon, or another trained energy professional as prescribed by rule.

C. The owner of a covered building ~~must~~[shall](#) retain all information tracked and entered into the ENERGY STAR Portfolio Manager for at least three years beyond the date on which reporting was required, and make all energy performance information available for inspection and audit by the [City Administrator](#)~~Director~~ during normal business hours, following reasonable notice by the [City Administrator](#)~~Director~~.

D. For campus portfolios where two or more covered buildings are served by shared utility services and predominantly used for health care, research or higher education purposes, the owner may opt to report a campus-wide gross floor area, Site EUI and total annual greenhouse gas emissions using the ENERGY STAR Portfolio Manager.

17.104.050 Energy Performance Reporting Schedule.

A. The reports required by Section 17.104.0~~430~~ ~~must~~[shall occur-be submitted](#) according to the following schedule:

1. For every covered building containing a gross floor area of at least 50,000 square feet, the report ~~must~~shall be submitted no later than April 22, 2016, and no later than every April 22nd thereafter.

2. For every covered building containing a gross floor area of at least 20,000 square feet but less than 50,000 square feet, the first report ~~must~~shall be submitted no later than April 22, 2017, and not later than every April 22nd thereafter.

B. The ~~City Administrator~~Director may extend the reporting submission date.

17.104.060 Transparency of Energy Performance Information.

A. The ~~City Administrator~~Director ~~shall~~will make city-wide summary statistics available to the public for the previous calendar year no later than October 1, 2016, and each October 1 thereafter.

B. For every covered building containing a gross floor area of at least 50,000 square feet, the ~~City Administrator~~Director ~~shall~~will make the compliance status and energy performance information of such covered buildings available to the public for the previous calendar year no later than October 1, 2017, and each October 1 thereafter.

C. For every covered building containing a gross floor area of at least 20,000 square feet but less than 50,000 square feet, the ~~City Administrator~~Director ~~shall~~will make the compliance status and energy performance information of such covered buildings available to the public for the previous calendar year no later than October 1, 2018, and each October 1 thereafter.

17.104.070 Notification and Posting.

A. Between September 1 and December 31 of each year, the ~~City Administrator~~Director ~~shall~~will notify owners of their obligation to report energy performance information for that calendar year, provided that the failure of the ~~City Administrator~~Director to notify any such owner ~~shall~~will not affect the obligation of such owner to report.

B. The ~~City Administrator~~Director may exempt a building owner from the requirements of Sections 17.104.040 and 17.104.050 if the building owner submits documentation establishing any of the following:

1. The covered building or areas of the building subject to the requirements of this section have been fully unoccupied during the entire calendar year for which reporting is required;

2. The building is a new construction and the building's certificate of occupancy was issued during the calendar year for which reporting is required;

3. A demolition permit has been issued for the building during the calendar year for which reporting is required;
4. Due to a special circumstance unique to the building, compliance would cause undue hardship.

17.104.080 Utility Data Access.

A. The owner of a covered building mustshall obtain data from each utility providing energy service to such building, subject to the governing state and/or federal data privacy laws to which the utility is subject at the time of the owner's request.

B. On and after January 1, 2016, and every year thereafter, upon the written or electronic request of an owner, each utility mustshall provide the building owner with access to the monthly energy consumption data for all utility meters identified by the owner. The data provided by the utility to the building owner will be aggregated by the utility and shall may not contain personally identifying information or any customer-specific billing data. The utility mustshall provide access to such aggregated utility data within 45 days of the building owner's request. Utilities providing energy service to a covered building mustshall maintain energy consumption data for meters serving each building for at least the most recent calendar year.

1. Where a unit or other space is occupied by a tenant and separately metered by a utility, the utility may require the owner to submit a written or electronic request identifying such meters and follow the consent requirements of such utility.

17.104.090 Building Data Access.

A. Where a unit or other space is occupied by a tenant and separately metered by a utility, the owner may request tenant data relating to energy use, use of space, operating hours, and other information required for ENERGY STAR Portfolio Manager reporting.

1. Within 30 days of a request by the owner, each tenant located in a covered building mustshall provide all data that cannot otherwise be acquired by the owner and that is needed by the owner to comply with the requirements of this section including consent to access utility data as described in Section 17.104.080. If such tenant is not in compliance, the building owner may provide a written or electronic request to the City AdministratorDirector for an extension to the reporting schedule in Section 17.104.050.

2. When the owner of a covered building receives notice that a tenant intends to vacate a space in such building, the owner mustshall request information relating to such tenant's energy use for any period of occupancy relevant to

the owner's obligation to meet the reporting requirements in Sections 17.104.040 and 17.104.050.

3. When a covered building changes ownership, the previous owner must provide the new owner all information for the months of the calendar year during the time the previous owner was still in possession of the property.

17.104.100 Enforcement and Penalties.

It ~~shall be~~ is a violation of this Chapter for any entity or person to fail to comply with the requirements of this section or to misrepresent any material fact in a document required to be prepared or disclosed by this Chapter.

A. Any building owner, tenant, utility or person who fails, omits, neglects, or refuses to comply with the provisions of this Chapter ~~shall be~~ is subject to the following:

1. Upon the first violation, the ~~City Administrator~~Director may issue a written warning notice to the entity or person, describing the violation.
2. Upon any subsequent violation, the ~~City Administrator~~Director may assess a civil penalty of up to \$500 for every 90-day period during which the violation continues.

17.104.110 Right of Appeal and Payment of Assessments.

After being issued a written warning notice of a first violation, any person receiving a subsequent notice of violation ~~must~~shall, within ten days of issuance of the notice, either pay to the City the stated amount of the assessment or request an appeal hearing by the Code Hearings Officer in accordance with procedures set forth in Chapter 22.10 of ~~the~~Portland City Code. The filing of an appeal request ~~shall~~will stay the effective date of the assessment until the appeal is determined by the Code Hearings Officer. If, pursuant to said appeal hearing, payment of the assessment is ordered, such payment must be received by the ~~City Administrator~~Director or postmarked within 15 calendar days after the order becomes final.

17.104.120 Annual Review of Reported Information.

The ~~City Administrator~~Director may arrange for annual reviews of verifying the energy performance information submitted to the City. The ~~City Administrator~~Director or a duly authorized agent may examine the records of the building owner regarding the energy performance data to verify the accuracy of the information submitted to the City. The ~~City Administrator~~Director ~~shall~~will provide prior written notice to the building owner at least 30 days prior to examining the energy performance data. The building owner ~~must~~shall provide the ~~City Administrator~~Director with access to the requested records within the Portland metropolitan region, during normal business hours. Any failure by the building owner to comply with the City's efforts to verifying the energy performance information ~~shall~~constitutes a violation of this Chapter.

Chapter 17.105 Motor Vehicle Fuel Tax

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

17.105.010 Tax Imposed.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

A Motor Vehicle Fuel Tax is ~~hereby~~ imposed on every Dealer, Seller, or User. The tax imposed ~~shall~~ must be paid monthly to the City. The Tax Administrator is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of the Motor Vehicle Fuel Tax, including all powers specified in ORS 319.010 to 319.430, and ORS 310.510 to 310.990.

17.105.015 Temporary Tax of 4 Years.

~~(Amended by Resolution 37480 (approved at May 19, 2020 election); effective May 19, 2020.)~~

This Chapter will be in full force and effect upon enactment. The Motor Vehicle Fuel Tax established in Section 17.105.045 ~~shall will~~ be imposed beginning on the tax implementation date established by the Tax Administrator and ~~shall will~~ sunset ~~4~~ four years after the tax implementation date. The tax implementation date ~~shall will~~ not be earlier than January 1, 2021. The Tax Administrator is authorized to collect amounts receivable under this Chapter for taxes and penalties accrued prior to the termination of the Motor Vehicle Fuel Tax.

17.105.020 Use of Tax Revenues.

A. For the purpose of this Section, Motor Vehicles Fuel Tax net revenues means the revenue from the tax and penalties imposed by this Chapter remaining after interest, collection, administrative, other costs, refunds, and credits are deducted from Motor Vehicle Fuel Tax revenues.

B. The City ~~shall may~~ use Motor Vehicles Fuel Tax net revenues only for construction, reconstruction, improvement, repair, maintenance, operation and use of public Highways, roads and streets as described in the Oregon Constitution, Article IX, Section 3a.

C. The type of projects to be completed will be those approved and undertaken out of the Street Repair and Traffic Safety Program, and will include but not be limited to projects in the following categories:

1. Street Repair
2. Safe Routes to Schools

3. Sidewalk Completion
4. High Crash Corridor Safety Improvements
5. Reducing Bicycle/Car conflicts
6. Intersection Safety Improvements

17.105.025 Definitions.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

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

A. City means the City of Portland.

B. Dealer means any Person who:

1. Imports or causes to be imported Motor Vehicle Fuel or Use Fuel for sale, use or Distribution in ~~the city~~ Portland, but “Dealer” does not include any Person who imports into ~~Portland the city~~ Motor Vehicle Fuel or Use Fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a Dealer ~~hereunder~~ this Chapter if that Dealer assumes liability for the payment of the applicable Motor Vehicle Fuel Tax to the City and “Dealer” does not include terminal storage facilities; ~~or~~
2. Produces, refines, manufactures or compounds Motor Vehicle Fuel or Use Fuel in ~~Portland the city~~ for use, Distribution or sale in ~~Portland the city~~; or
3. Acquires in ~~Portland the city~~ for sale, use or Distribution in ~~Portland the city~~ Motor Vehicle Fuel or Use Fuel with respect to which there has been no Motor Vehicle Fuel Tax previously incurred.

C. Distribution. In addition to its ordinary meaning, the delivery of Motor Vehicle Fuel by a Dealer or Seller to any Service Station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines. Use Fuel is withdrawn directly for sale or for delivery into the fuel tanks of Motor Vehicles whether or not the Service Station, tank or storage facility is owned, operated or controlled by the Dealer or Seller.

D. Highway means every way, thoroughfare and place of whatever nature, open for use of the public for the purpose of vehicular travel.

E. Motor Vehicle means all vehicles, engines or machines, movable or immovable, operated or propelled by the use of Motor Vehicle Fuel.

F. Motor Vehicle Fuel includes gasoline, mogas, methanol and any other flammable or combustible gas or liquid, by whatever name such gasoline, diesel, mogas, methanol, gas or liquid is known or sold, usable as fuel for the operation of Motor Vehicles, except gas, mogas, methanol or liquid, the chief use of which, as determined by the Tax Administrator, is for purposes other than the propulsion of Motor Vehicles upon the Highways.

G. Motor Vehicle Fuel Tax means the tax imposed on Motor Vehicle Fuel and Use Fuel in this Chapter.

H. Person means any natural Person, association, firm, partnership, corporation, joint venture or other business entity.

I. Seller means:

1. A person that sells Motor Vehicle Fuel or Use Fuel to a user of vehicles; or
2. If the Motor Vehicle Fuel or Use Fuel is dispensed at a non-retail facility, the person that owns the users' accounts and bills the users for Motor Vehicle Fuel purchased at a non-retail facility.

J. Service Station means any place operated for the purpose of retailing and delivering Motor Vehicle Fuel or Use Fuel into the fuel tanks of Motor Vehicles.

K. Street Repair and Traffic Safety Program means the City ~~of Portland~~ program in the Transportation Operating Fund where-in which Motor Vehicle Fuel Tax net revenue pursuant to this chapter is deposited and street repair and traffic safety expenditures are recorded.

L. Terminal Storage Facility means any fuel storage facility that has marine or pipeline access.

M. Tax Administrator means the City ~~Council Administrator, the City Council's designees,~~ or any Person or entity with whom the City Council City Administrator contracts to implement the Motor Vehicle Fuel Tax program or a portion ~~thereof~~ it.

N. Use Fuel means any combustible gas or material of a kind used for the generation of power to propel a Motor Vehicle on the Highways except Motor Vehicle Fuel as defined in Subsection 17.105.025 F. above.

O. User means the Person required to obtain a User's License as required in ORS 319.550.

P. User's License means the license required in ORS 319.550.

Q. Weight Receipt means a receipt issued by the Oregon Department of Transportation, stating the combined weight of each self-propelled or motor-driven vehicle.

17.105.030 License Requirements.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

No Dealer, Seller or User ~~shall~~may sell, use, or distribute any Motor Vehicle Fuel or Use Fuel until they have secured a Dealer's, Seller's, or User's license as required ~~herein~~by this Chapter.

17.105.035 License Applications and Issuance.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

A. Every Person, who is a Dealer or Seller of Motor Vehicle Fuel in ~~the City of~~ Portland, ~~shall~~must make application to the Tax Administrator for a license authorizing such Person to engage in business as a Dealer or Seller in ~~the City of~~ Portland. Every Person who is required to have the User's License pursuant to ORS 319.550 ~~must~~shall make application to the Tax Administrator for a license authorizing such Person to use fuel in ~~the City of~~ Portland.

B. Applications for the license ~~must~~shall be made on forms prescribed by the Tax Administrator.

C. Applications ~~must~~shall include, among other items as may be required by the Tax Administrator:

1. The business name under which the applicant transacts business.
2. The address of applicant's principal place of business and location of distributing stations in and within three miles of ~~Portland~~the city.
3. The name and address of the managing agent, the names and addresses of the several Persons constituting the firm or partnership or, if a corporation, the name under which the corporation is authorized to transact business and the names and addresses of its principal officers and registered agent, as well as primary transport carrier.

D. If an application for a Dealer's license, Seller's license or User's License is complete and accepted for filing, the Tax Administrator ~~shall~~may issue to the Dealer, Seller or User a license in such form as the Tax Administrator may prescribe to transact business in ~~Portland~~the city. A license issued ~~here~~under this Section is not assignable, and is valid only for the Dealer, Seller or User in whose name it is issued.

E. The Tax Administrator ~~shall~~will retain all completed applications together with a record of all licensed Dealers, Sellers and Users.

17.105.040 Failure to Secure License.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

A. If a Dealer, Seller or User sells, distributes, or uses any Motor Vehicle Fuel or Use Fuel without first filing the application and obtaining the license required by Section 17.105.035, the Motor Vehicle Fuel Tax on all Motor Vehicle Fuel or Use Fuel sold, distributed or used by that Dealer, Seller or User ~~shall~~ will be immediately due and payable.

B. The Tax Administrator ~~shall~~ will determine, from as many available sources as the Tax Administrator determines reasonable, the amount of tax due, ~~shall and will~~ assess the Dealer, Seller or User for the tax due together with a penalty of 100 percent of the tax. In any suit or proceeding to collect the tax or penalty or both, the assessment ~~shall~~ will be prima facie evidence that the Dealer, Seller or User ~~therein named~~ is indebted to the City in the amount of the tax and penalty stated.

C. Any tax or penalty assessed pursuant to this Section may be collected in the manner prescribed in Section 17.105.095 with reference to delinquency in payment of the fee or by an action at law.

D. In the event any suit or action is instituted to enforce this Section, if the City is the prevailing party, the City ~~shall~~ will be entitled to recover from the Person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

17.105.045 Amount and Payment of Tax.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

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

A. Not later than the 25th day of each calendar month, submit a report to the Tax Administrator on forms prescribed by the Tax Administrator of all Motor Vehicle Fuel sold, used or distributed by them in ~~Portland the city~~ as well as all such fuel sold, used or distributed in ~~Portland the city~~ by a purchaser thereof upon which sale, use or Distribution the Dealer or Seller has assumed liability for the applicable Motor Vehicle Fuel Tax during the preceding calendar month.

B. Except as provided in ORS 319.690 and ORS 319.692, not later than the 20th day of each calendar month, submit a report to the Tax Administrator on forms prescribed by the Tax Administrator of all Use Fuel sold, used or distributed by them in ~~Portland the city~~ as well as all such fuel sold, used or distributed in ~~Portland the city~~ by a purchaser thereof upon which sale, use or Distribution the Dealer or Seller has assumed liability for the applicable Motor Vehicle Fuel Tax during the preceding calendar month.

C. Pay a Motor Vehicle Fuel Tax computed on the basis of 10 cents per gallon of such Motor Vehicle Fuel or Use Fuel so sold, used or distributed as shown by such statement in the manner and within the time provided in [Portland Citythis](#) Code or Administrative Rules promulgated in accordance with this Chapter.

17.105.050 Revocation of License.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

A. The ~~Tax~~[City](#) Administrator may revoke the license of any Dealer, Seller, or User who fails to comply with any provision of this Chapter. The Tax Administrator ~~shall~~[will](#) mail, by certified mail addressed to the Dealer, Seller or User at their last known address appearing in the files of the Tax Administrator, a notice of intent to revoke. The notice of revocation ~~shall~~[will](#) provide the reason(s) for revocation, which include, but are not limited to, failure to register for a license, failure to remit the tax, failure to file required reports or any information as required by the [City Tax](#) Administrator, or failure to pay any penalty or interest assessments.

B. A Dealer, Seller or User has the right to protest a notice of revocation to the [City Tax](#) Administrator in writing within 14 days. The Tax Administrator ~~must~~[will](#) forward the appeal, including the reasons for the determination, to the Business License Appeals Board within 30 days. The [City Tax](#) Administrator may prescribe by Administrative Rule procedures for the protest and appeal of license revocations. The license revocation ~~shall~~[will](#) become effective when the local protest and appeal process provided in Administrative Rules is completed and a final decision has been issued.

17.105.055 Cancellation of License.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

A. The Tax Administrator may, upon written request of a Dealer, Seller or User, cancel a license issued to that Dealer, Seller or User. The Tax Administrator ~~shall~~[will](#), upon approving the Dealer's, Seller's or User's request for cancellation, set a date not later than 30 days after receipt of the written request, after which the license ~~shall~~[will](#) no longer be effective.

B. The Tax Administrator may, after 30 days' notice has been mailed to the last known address of the Dealer, Seller or User, cancel the license of Dealer, Seller or User upon finding that the Dealer, Seller or User is no longer engaged in the business of a Dealer, Seller or User.

17.105.060 Remedies Cumulative.

Except as otherwise provided in Sections 17.105.095 and 17.105.105, the remedies provided in Sections 17.105.040, 17.105.050, and 17.105.055 are cumulative. No action taken pursuant to those sections ~~shall~~[will](#) relieve any Person from the penalty provisions of [Portland Citythis](#) Code.

17.105.065 Billing Purchasers.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

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

17.105.070 Failure to Provide Invoice or Delivery Tag.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

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

17.105.075 Transporting Motor Vehicle Fuel or Use Fuel in Bulk.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

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

17.105.080 Exemption of Weight Receipt Holders.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

Use Fuel sold to holders of a Weight Receipt ~~shall~~may not be charged the Use Fuel Tax.

17.105.085 Exemption of Export Fuel.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

A. The Motor Vehicle Fuel Tax imposed by Section 17.105.010 ~~shall~~will not be imposed on Motor Vehicle Fuel or Use Fuel:

1. Exported from ~~the city~~Portland by a Dealer; or
2. Sold by a Dealer for export by the purchaser to an area or areas outside ~~Portlandthe city~~ in containers other than the fuel tank of a Motor Vehicle, but every Dealer ~~shall be required to~~must report such exports and sales to ~~Portlandthe city~~ in such detail as may be required.

B. In support of any exemption from Motor Vehicle Fuel Taxes claimed under this Section other than in the case of stock transfers or deliveries in the Dealer's own equipment, every Dealer must execute and file with the Tax Administrator an export certificate in such form as ~~shall~~may be prescribed, prepared and furnished by the Tax Administrator, containing a statement, made by some Person having actual knowledge of the fact of such exportation, that the Motor Vehicle Fuel or Use Fuel has been exported from ~~Portlandthe city~~, and giving such details with reference to such shipment as the Tax Administrator may require. The Tax Administrator may demand of any Dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The Tax Administrator may, in a case where the Tax Administrator believes no useful purpose would be served by filing of an export certificate, waive the filing of the certificate. Any Motor Vehicle Fuel or Use Fuel carried from ~~Portlandthe city~~ in the fuel tank of a Motor Vehicle ~~shall~~will not be considered as exported from ~~Portlandthe city~~.

C. No Person ~~shall~~may, through false statement, trick or device, or otherwise, obtain Motor Vehicle Fuel for export as to which the Motor Vehicle Fuel Tax has not been paid and fail to export the same, or any portion thereof, or cause the Motor Vehicle Fuel or any portion thereof not to be exported, or divert or cause to be diverted the Motor Vehicle Fuel or any portion thereof to be used, distributed or sold in ~~Portlandthe city~~ and fail to notify the Tax Administrator and the Dealer from whom the Motor Vehicle Fuel was originally purchased of their act.

D. No Dealer, Seller, User, or other Person ~~shall~~may conspire with any Person to withhold from export, or divert from export or to return Motor Vehicle Fuel or Use Fuel to ~~Portlandthe city~~ for sale or use so as to avoid any of the fees imposed ~~herein~~by this Chapter.

E. In support of any exemption from taxes on account of sales of Motor Vehicle Fuel or Use Fuel for export by the purchaser, the Dealer ~~must~~shall retain in their files for at least 3 years; an export certificate executed by the purchaser in such form and containing such information as is prescribed by the Tax Administrator. This certificate ~~shall~~will be prima facie evidence of the exportation of the Motor Vehicle Fuel or Use Fuel to which it applies only if accepted by the Dealer in good faith.

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

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

A. Notwithstanding Section 17.105.095 of this Chapter, if the first sale, use or distribution of Motor Vehicle Fuel is from one licensed Dealer to another licensed Dealer, the selling or distributing Dealer is not required to pay the Motor Vehicle Fuel Tax imposed ~~by~~ mustshall this Chapter. When the purchasing or receiving Dealer first sells, uses, or distributes the fuel, that Dealer mustshall pay the Motor Vehicle Fuel Tax regardless of whether the sale, use or distribution is to another licensed Dealer.

B. The Seller of Use Fuel mustshall collect the Motor Vehicle Fuel Tax at the time the fuel is dispensed or placed for a price into a receptacle on a motor vehicle, from which receptacle the fuel is supplied to propel the vehicle, unless one of the following situations applies:

1. The vehicle into which the Seller delivers or places the fuel bears a valid permit or users emblem issued by the Department of Transportation in accordance with Section 17.105.080.

2. The fuel is dispensed at a nonretail facility, in which case the Seller mustshall collect any tax owed at the same time the seller collects the purchase price from the person to whom the fuel was dispensed at the nonretail facility. A Seller is not required to collect the tax under this paragraph from a person who certifies to the Seller that the use of the fuel is exempt from the tax imposed under this Chapter.

3. A cardlock card is used for purchase of the fuel at an attended portion of a retail facility equipped with a cardlock card reader, in which case the cardlock card issuer licensed in this state is responsible for collecting and remitting the tax unless the person making the purchase certifies to the seller that the use of the fuel is exempt from the tax imposed under this Chapter.

C. The holder of a User's License mustshall collect the Motor Vehicle Fuels Tax as provided in ORS 319.510 through ORS 319.880.

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

E. A Seller who renders monthly statements to the Tax Administrator as required by this Chapter mustshall show separately the number of gallons of Use Fuel sold or delivered.

17.105.095 Payment of Tax and Delinquency.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

A. The Motor Vehicle Fuel Tax imposed by this Chapter ~~must~~shall be paid to the Tax Administrator pursuant to Section 17.105.045.

B. Except as provided in Subsections 17.105.095 D. and F., if payment of the tax on Motor Vehicle Fuel is not paid as required by Subsection 17.105.095 A., a penalty of 1 percent of such tax ~~shall~~will be assessed and be immediately due and payable.

C. Except as provided in Subsections 17.105.095 D. and F., if payment of the tax on Use Fuel is not paid as required by Subsection 17.105.095 A., a penalty of 10 percent of such tax ~~shall~~will be assessed and be immediately due and payable.

D. Except as provided in Subsection 17.105.095 F., if the payment of the tax and penalty in Subsection 17.105.095 B., if any, is not made on or before the 1st day of the next month following that month in which payment is due, a further penalty of 10 percent of the tax ~~shall~~will be assessed. Said penalty ~~shall~~will be in addition to the penalty provided for in Subsection 17.105.095 B. and ~~shall~~will be immediately due and payable.

E. If the Motor Vehicle Fuel Tax imposed by this Chapter is not paid as required by Subsection 17.105.095 A., interest ~~shall~~will be charged at the rate of .0329 percent per day until the tax, interest and penalties have been paid in full.

F. Penalties imposed by this Section ~~shall~~will not apply if a penalty has been assessed and paid pursuant to Section 17.105.040. The Tax Administrator may for good cause shown waive any penalties assessed under this Section.

G. If any Person fails to pay the Motor Vehicle Fuel Tax, interest, or any penalty provided for by this Section, the Tax Administrator ~~shall~~will commence and prosecute in any court of competent jurisdiction an action at law to collect the amounts due. Such action may be taken on the sole authority of the Tax Administrator.

H. In the event any suit or action is instituted to collect the Motor Vehicle Fuel Tax, interest, or any penalty provided for by this Section, if the City is the prevailing party, the City ~~shall~~will be entitled to recover from the Person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

17.105.100 Monthly Statement of Dealer, Seller or User.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

Every Dealer, Seller or User in Motor Vehicle Fuel or Use Fuel ~~must~~shall provide to the Tax Administrator on or before the date required in Section 17.105.045 on forms prescribed, prepared and furnished by the Tax Administrator, a statement of the number of gallons of Motor Vehicle Fuel or Use Fuel sold, distributed or used by the Dealer, Seller or User during the preceding calendar month. The statement

~~must~~shall be signed by the Dealer, Seller or User or the Dealer's, Seller's or User's agent.

17.105.105 Failure to File Monthly Statement.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

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

17.105.106 Refunds.

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

17.105.110 Examinations and Investigations.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

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

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

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

A. Except as otherwise provided in ~~Portland City~~this Code, any credit for erroneous overpayment of tax made by a Dealer, Seller or User taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a Dealer, Seller or User must be taken or filed within ~~3~~three years after the date on which the overpayment was made to the City.

B. Except in the case of a fraudulent report or failure to make a report, every notice of additional tax proposed to be assessed under ~~Portland City~~this Code ~~shall will~~ be served on Dealers, Sellers and Users within ~~three~~3 years from the date upon which such additional taxes become due or were paid, whichever is later, and ~~shall will~~ be subject to penalty as provided in Section 17.105.095.

C. In the case of the filing of a false or fraudulent report, a failure to file a required report, or willful refusal to remit the tax, an assessment may be made, or a proceeding for the collection of such assessment may be commenced, at any time.

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

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

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

17.105.125 Records to be Kept by Dealers, Sellers and Users.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

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

17.105.130 Records to be Kept 3 Years.

~~(Amended by Ordinance 188086, effective December 16, 2016.)~~

Every Dealer, Seller and User ~~must~~shall maintain and keep, for a period of 3 years and 6 months, all records of Motor Vehicle Fuel or Use Fuel used, sold and

distributed within ~~Portlandthe city~~ by such Dealer, Seller or User, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the Tax Administrator. In the event such records are not kept within the state of Oregon, the Dealer, Seller or User ~~mustshall~~ reimburse the Tax Administrator for all travel, lodging, and related expenses incurred by the Tax Administrator in examining such records. The amount of such expenses ~~shallwill~~ be assessed in addition to the tax imposed by Section 17.105.010.

17.105.135 Citizen Oversight Committee; Annual Audits.

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

B. The use of Motor Vehicle Fuel Tax net revenues will be audited annually.

17.105.140 Chapter Effective If Passed.

~~(Amended by Resolution 37480 (approved at May 19, 2020 election); effective May 19, 2020.)~~

~~Chapter 17.105 of this Code does not take effect unless Measure 26-209 is approved by the people according to elections results for the election held in the City on May 19, 2020.~~

17.105.145 Administrative Rules.

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

Chapter 17.106 Deconstruction of Buildings Law

~~(Chapter added by Ordinance 187876, effective October 31, 2016.)~~

17.106.005 Short Title.

~~This~~ Chapter ~~17.106 of the Portland City Code shall be~~is known as the Deconstruction of Buildings Law.

17.106.010 Purpose.

This Chapter provides deconstruction requirements for the removal of Portland's older and more historic primary dwelling structures. The Deconstruction of Buildings Law seeks to:

- A. Maximize the salvage of valuable building materials for reuse;
- B. Reduce carbon emissions associated with demolition;
- C. Reduce the amount of demolition waste disposed of in landfills; and
- D. Minimize the adverse impacts associated with building removal.

17.106.020 Definitions.

~~(Amended by Ordinance 189761, effective January 20, 2020.)~~

The terms used in Chapter 17.106 are defined as provided in this section:

- A. **“Certified Deconstruction Contractor”** means a contractor licensed with the Oregon Construction Contractors Board (CCB) that has successfully completed a deconstruction certification program recognized by the Bureau of Planning and Sustainability. A firm will be considered certified if at least one person currently employed by the firm is certified.
- B. **“Deconstruction”** means the systematic dismantling of a structure, typically in the opposite order it was constructed, in order to maximize the salvage of materials for reuse, in preference over salvaging materials for recycling, energy recovery, or sending the materials to the landfill.
- C. **“Director”** means, the Director of the Bureau of Planning and Sustainability or their authorized designee.
- D. **“Primary Dwelling Structure”** means one and two-family structures (detached and attached) based on current permitted occupancy at the time of demolition permit application. Primary Dwelling Structures do not include accessory structures such as garages or accessory dwelling units.
- E. **“Recycling”** means the processing of waste materials into new products or material feed stock for products. Materials that can be recycled include but are not limited to concrete, metal piping, and asphalt roofing shingles.
- F. **“Responsible Party”** means any owner or person in control of a primary dwelling structure, or their authorized agent.
- G. **“Reuse”** means the utilization of a product or material that was previously installed for the same or similar function to extend its life cycle. Materials salvageable for reuse include but are not limited to cabinets, doors, hardware, fixtures, flooring, siding, and framing lumber.

17.106.030 ~~Authority of Director~~Administrative Rules.

The City Administrator may adopt administrative rules as authorized by Charter.

~~A. The Director is hereby authorized to administer and enforce the provisions of this Chapter.~~

~~B. The Director is authorized to adopt rules, procedures, and forms to implement the provisions of this Chapter.~~

~~1. Any rule adopted pursuant to this Section shall require a public review process. Not less than 10 nor more than 30 days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.~~

~~2. During the public review, the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendations, taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director and with the City Auditor's Portland Policy Documents repository.~~

~~C. The Director may temporarily suspend or modify the requirements of this Chapter based on a determination that such requirements are temporarily infeasible due to economic or technical circumstances. The Director's determination to temporarily suspend or modify shall be filed as a report with the City Council. The Director's determination shall be effective after the Council has accepted the report.~~

17.106.040 Regulations.

~~(Amended by Ordinances 188259, 189761 and 191736, effective July 1, 2024.)~~

A. Scope. The deconstruction requirements of this Chapter apply to demolition permit applications under Chapter 24.55 of [the Portland](#) City Code for:

1. Primary dwelling structures that were built in 1940 or earlier according to building permit records on file with the Portland Permitting & Development, or if no such permit records exist, then County tax assessor information; or
2. Primary dwelling structures that have been designated as a historic resource subject to the demolition review or 120-day delay provisions of Title 33.

B. Requirements. Primary dwelling structures must be deconstructed in accordance with the provisions of this Chapter and associated administrative rules. Salvaged material may be sold, donated, or reused on site.

1. Demolition Permit Application. An application for a demolition permit under Chapter 24.55 for any primary dwelling structure ~~shall~~will not be

considered complete unless it is accompanied by a completed Pre-Deconstruction Form provided by the ~~Director~~[City Administrator](#).

2. Certified Deconstruction Contractor. Deconstruction work must be performed by a Certified Deconstruction Contractor. A Certified Deconstruction Contractor ~~shall~~[must](#) be assigned to the project throughout the course of deconstruction. Certified Deconstruction Contractors must comply with the requirements of this Chapter and the administrative rules. The Bureau of Planning and Sustainability will maintain on file and available to the public a list of current Certified Deconstruction Contractors.

3. Site Posting. On the first day of active deconstruction a yard sign provided by the ~~City Administrator~~[Director](#) when the permit is issued must be posted at the site. The sign must indicate that the structure is being deconstructed and must provide City of Portland contact information for questions or concerns.

a. The sign must remain in place throughout the course of deconstruction.

b. The sign must be placed on each street frontage of the site.

c. Signs must be posted within 5 feet of a street lot line and must be visible to pedestrians and motorists. Signs may not be posted in a public right-of-way. Signs are not required along street frontages that are not improved and allow no motor vehicle access.

4. Heavy Machinery. Heavy machinery may be used in deconstruction to assist in the salvage of materials for reuse or to remove material not required to be salvaged for reuse. Heavy machinery may not be used in deconstruction to remove or dismantle components of buildings in ways that render building components unsuitable for salvage. For purposes of this Chapter 17.106, heavy machinery includes, but is not limited to, track hoes, excavators, skid steer loaders, or forklifts.

5. Documentation. Certified Deconstruction Contractors must maintain receipts for donation, sale, recycling, and disposal of all materials for any deconstruction project. Materials intended for reuse on site must be documented with photographs. The ~~City Administrator~~[Director](#) may ask that a Certified Deconstruction Contractor produce the receipts or photographs for inspection any time until the demolition permit is approved to be finalized.

6. Demolition Permit Final. A completed Post-Deconstruction Form and all documentation required in Subsection 5. above must be submitted to the Bureau of Planning and Sustainability before the Portland Permitting & Development may approve a demolition permit as finalized.

C. Additional Regulations. Compliance with Chapter 17.106 does not exempt the demolition of buildings from any other requirements of ~~the~~[Portland](#) City Code, such as in Title 11 Trees, Title 24 Building Regulations, or Title 33 Planning and Zoning.

D. Exemptions. The following are exempt from the requirements of Chapter 17.106:

1. A building permit to move a structure as provided under Chapter 24.25.
2. Any primary dwelling structure that has been determined by the Portland Permitting & Development to be dangerous and is required to be abated by demolition as provided in Section 29.40.030.
3. Any primary dwelling structure that the ~~City Administrator~~[Director](#) has determined is unsuitable for deconstruction because:
 - a. The structure is structurally unsafe or is otherwise hazardous to human life; or
 - b. Most of the material in the structure is not suitable for reuse.

E. Request for an Exemption. An applicant may request an exemption from the requirements of this Chapter under Subsection 17.106.040 D.3. above by submitting a written request for exemption, together with supporting evidence, when submitting a demolition permit application.

F. Determination of an Exemption. The ~~City Administrator~~[Director](#) will make the final determination of exemption based on evidence submitted by the applicant as well as an inspection to confirm conditions and unsuitability. The demolition permit will not be issued until the final determination is made on the exemption request. Should the applicant disagree with the final determination the determination may be appealed by the applicant under Subsection 17.106.060 B.

17.106.050 Enforcement and Penalties.

~~(Amended by Ordinances 189413 and 189761, effective January 20, 2020. Corrected under authority of PCC Section 1.01.035 on May 19, 2020.)~~

A. The ~~City Administrator~~[Director](#) may impose penalties on any responsible party who fails to comply with the requirements of this Chapter or who has misrepresented any material fact in a document or evidence required to be prepared or submitted by this Chapter.

1. A first violation of this Chapter may be subject to a penalty of up to \$500.
2. A second violation of this Chapter by the same person may be subject to a penalty of up to \$1,000.

3. Third and subsequent violations of this Chapter by the same person may be subject to a penalty of up to \$1,500.
4. Penalties may be imposed on a per month, per day, per incident, or such other basis as the [City Administrator](#)~~Director~~ may determine as appropriate based upon criteria in Subsection E below.
5. Any person receiving a notice of violation ~~must~~shall, within 10 days of issuance of the notice, either pay to the City the stated amount of the penalty or request an appeal as provided in Section 17.106.060.

B. Heavy Machinery.

1. Improper use of heavy machinery in violation of this Chapter may be subject to a penalty of up to \$10,000.
2. Any person receiving a notice of violation ~~must~~shall, within 10 days of issuance of the notice, either pay to the City the stated amount of the penalty or request an appeal as provided in Section 17.106.060.

C. Additional Enforcement Actions for Certified Deconstruction Contractors. The [City Administrator](#)~~Director~~ may impose the following additional remedies for Certified Deconstruction Contractors.

1. A first violation of this Chapter may result in removal from the list of approved Certified Deconstruction Contractors for up to 6 months.
2. A second violation of this Chapter may result in removal from the list of approved Certified Deconstruction Contractors for up to 12 months.
3. Third and subsequent violations may result in revocation of certification, ~~after which~~ whereby a contractor may not apply for recertification for a period of 18 months.
4. Temporary removal from the list of approved Certified Deconstruction Contractors will expire immediately following the term of removal and will not require further action from the [City Administrator](#)~~Director~~.

D. Stop Work Orders. When necessary to obtain compliance with this Chapter, the [City Administrator](#)~~Director~~ may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If the [City Administrator](#)~~Director~~ issues a stop work order, activity subject to the order may not be resumed until such time as the [City Administrator](#)~~Director~~ gives specific approval in writing. The stop work order will be in writing and posted at a conspicuous location at the site. When an emergency condition exists, a stop work order may be issued orally, followed by a written stop work order. It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order. Any person subject to a stop work order may seek administrative review of

the order and may appeal the [City Administrator](#)~~Director~~'s administrative determination as provided in Subsection 17.106.060 B.

E. The [City Administrator](#)~~Director~~ will consider the following criteria in determining the amount of penalties or remedies to impose under this Section:

1. The nature and extent of the person's involvement in the violation;
2. Whether the person was seeking any benefits, economic or otherwise, through the violation;
3. Whether other similar prior violations have occurred with that person;
4. Whether the violation was isolated and temporary, or repeated and continuous;
5. The length of time from any prior violations;
6. The magnitude and seriousness of the violation;
7. The costs of investigation and remedying the violation;
8. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.

F. If the [City Administrator](#)~~Director~~ assesses an enforcement penalty as described in this Section against a property owner, the [revenue service and program of the City Administrator](#)~~Director~~ may file a statement ~~with the Revenue Division~~ that identifies the property, the amount of the penalty, and the date from which the charges are to begin. The [revenue service and program of the City Administrator](#)~~Revenue Division~~ will then:

1. Notify the property owner of the assessment of enforcement penalties;
2. Record a property lien in the Docket of City Liens;
3. Bill the property owner monthly for the full amount of enforcement penalties owing, plus additional charges to cover [the City's](#) administrative costs ~~of the Revenue Division~~; and
4. Maintain lien records until the lien and all associated interest, penalties, and costs are paid in full; and the [City Administrator](#)~~Director~~ certifies that all violations listed in the original or any subsequent notice of violation have been corrected.

G. Inspections. The [City Administrator](#)~~Director~~ may conduct inspections whenever necessary to enforce any provisions of this Chapter, to determine compliance with this Chapter or whenever the [City Administrator](#)~~Director~~ has reasonable cause to

believe there exists any violation of this Chapter. If the responsible party is at the site when the inspection is occurring, the ~~City Administrator~~Director will first present proper credentials to the responsible party and request entry.

17.106.060 Right of Appeal.

A. Whenever the responsible party has been given a written notice or order pursuant to this Chapter or has been directed to make any correction, pay a penalty or to perform any act and the responsible party believes the finding of the notice or order was in error, the responsible party may have the notice or order reviewed by the ~~City Administrator~~Director. If a review is sought, the responsible party ~~will~~must submit a written request to the ~~City Administrator~~Director within 10 days of the date of the notice or order. Such review will be conducted by the ~~City Administrator~~Director. The responsible party requesting such review will be given the opportunity to present evidence to the ~~City Administrator~~Director. Following a review, the ~~City Administrator~~Director will issue a written determination. Nothing in this Section ~~shall limit~~s the authority of the ~~City Administrator~~Director to initiate a code enforcement proceeding under Title 22.

B. A responsible party may appeal the ~~City Administrator~~Director's written determination to the Code Hearings Officer in accordance with Portland City Code Chapter 22.10. The filing of an appeal request will remain the effective date of a penalty until the appeal is determined by the Code Hearings Officer. If, pursuant to said appeal hearing, payment of a penalty is ordered, such payment must be received by the ~~City Administrator~~Director or postmarked within 15 calendar days after the order becomes final.

Chapter 17.107 Transportation and Parking Demand Management

~~(Chapter added by Ordinance 188177; amended by Ordinance 188695, effective May 24, 2018.)~~

17.107.010 Purpose.

~~(Amended by Ordinance 188957, effective June 23, 2018.)~~

The purpose of this Chapter is to describe the required elements of a Transportation and Parking Demand Management (TDM) Plan, and the circumstances under which a pre-approved TDM plan may be submitted. Requiring TDM is intended to prevent, reduce, and mitigate the impacts of development on the transportation system, neighborhood livability, safety, and the environment while reducing transportation system costs.

TDM plans provide residents, employees, and visitors with information and incentives to use transportation methods other than single occupancy vehicles in

order to achieve the City's transportation goals, including reduced reliance on single occupancy vehicles, and reduced vehicle miles travelled.

17.107.020 Required Elements of a Transportation and Parking Demand Management Plan.

~~(Amended by Ordinance 189651, effective September 6, 2019.)~~

A TDM Plan ~~shall~~must include, at a minimum, the following elements:

A. Description of proposed development, including trip generation estimates and proposed auto and bicycle parking. The description may include development anticipated to occur for a period of up to 10 years;

B. Description of existing land uses, traffic conditions, and multimodal facilities in the area within ¼ mile of the site, including (if applicable) any current employee mode split data from the most recent Employee Commute Options (ECO) report submitted to the Oregon Department of Environmental Quality;

C. Performance Targets:

1. Mode split goals ~~must~~shall be based on the performance targets from Policy 9.49.3 in the Transportation System Plan;

2. An ECO survey submitted in Subsection B. ~~must~~shall serve as the baseline mode split, when available. If an ECO survey is not available, census data may be used, or the applicant may submit an independent survey from a professional traffic engineer;

3. Interim performance targets may be determined as a straight line projection from the base year to 2035;

4. Alternate performance targets may be proposed based on the following factors:

a. The relative availability of bicycle, transit, bike share, and car share infrastructure and services;

b. Current TDM strategies that have been implemented by the applicant;

c. Travel characteristics, including schedules, of employees, residents, and visitors;

d. Best practices and performance of comparable sites in Portland and comparable cities;

D. If a site has a TDM Plan approved through a previous land use review, and the applicant is in compliance with the provisions of that Plan, then the TDM Plan may serve as the basis of any subsequent updates. The submittal for a TDM Plan update should include:

1. Demonstration of compliance with neighborhood engagement obligations;
2. Demonstration of compliance with mode split reporting obligations;
3. Evaluation of mode split trends based relative to the performance target;

E. Strategies likely to achieve the identified mode split and parking management performance targets. Strategies may include but are not limited to:

1. Supply, management, and pricing of on-site employee, resident, and student parking;
2. Dissemination of information about alternatives to single-occupant vehicle commuting;
3. Identification of a site or campus TDM coordinator;
4. Financial incentives offered to employees for carpool, car-sharing, transit, bicycling, and walking;
5. For nonresidential uses, strategies to reduce total trips such as telework and/or compressed work week scheduling or on-site housing;
6. For nonresidential uses, the availability of end-of-trip facilities, such as bicycle lockers, showers, and secured bicycle parking.

F. For colleges and hospitals in the Campus Institutional Zone, a neighborhood engagement plan;

G. Reporting as required by Section 17.107.045, including any Performance Monitoring plans proposed by the applicant that exceed the ECO reporting requirements detailed in Section 17.107.045;

H. Ongoing Participation and Adaptive Management plan, specifying what additional actions not detailed in Subsection 17.107.020 D. may be utilized to achieve the 2035 performance targets specified in Subsection 17.107.020 C.

17.107.030 Transportation and Parking Demand Management Requirements and Procedures.

~~(Amended by Ordinances 189895 and 190251, effective February 5, 2021.)~~

A. Requirement for Colleges and Medical Centers. Title 33 requires College and Medical Center uses in the campus institutional zones to conform to an approved

Transportation Impact review. The application requirements for the Transportation Impact review require the applicant to provide a Transportation and Parking Demand Management Plan that has all the elements required by this Chapter. Approval of the TDM plan is subject to the criteria described in Chapter 33.852.

B. Requirement for Residential Uses. Title 33 requires development in a commercial/mixed use or multi-dwelling zone that includes more than 10 new dwelling units to have a TDM Plan at the time of development permit issuance. Development subject to this requirement may utilize the pre-approved multimodal incentive described in Section 17.107.035, or develop a custom plan approved through Transportation Impact Review, as described in Chapter 33.852.

17.107.035 Pre-Approved Multimodal Incentives for Development.

~~(Amended by Ordinances 188957 and 189895, effective March 18, 2020.)~~

As an alternative to preparing a custom TDM plan subject to Sections 17.107.020 through 17.107.030, and Chapter 33.852, an applicant may agree to provide a multimodal incentive plan, preapproved by the City, including, but not limited to, the following:

- A.** Distribution of transportation options information approved or provided by the Portland Bureau of Transportation for the first 4 years of building occupancy, offered to residents, employees, and visitors;
- B.** Multimodal financial incentives equal to the value of a 1-year adult TriMet pass per residential unit, for the first year of building occupancy. This obligation will pay for a menu of incentives that will be offered to residents of the site to increase the use of transit, bicycling, walking, and other alternatives to driving alone. Specific rates for affordable dwelling units and market-rate dwelling units are found in the annual fee schedule;
- C.** Participation in an annual travel survey of residents and employees for the first 4 years of building occupancy;
- D.** A written acknowledgment by the applicant of the enforcement provisions in Code Section 17.107.050.

17.107.045 Required Reporting.

Employers on sites subject to an approved TDM Plan ~~must~~shall submit Employee Commute Options surveys to the Portland Bureau of Transportation a minimum of every 2 years after initial approval. On residential properties subject to a pre-approved TDM Plan under Section 17.107.035, the building owner or manager is required to actively participate in an annual City travel survey of residents and employees for the first 4 years of building occupancy.

17.107.050 Enforcement and Penalties.

It ~~shall be~~ a violation of this Chapter for any entity or person to fail to comply with the requirements of this Chapter or to misrepresent any material fact in a document required to be prepared or disclosed by this Chapter. Any building owner, employer, tenant, property manager, or person who fails, omits, neglects, or refuses to comply with the provisions of this Chapter ~~shall be~~ subject to a civil penalty of up to \$1,000 for every 7-day period during which the violation continues. If an entity or person is fully implementing all other elements of this Chapter, failing to meet performance targets alone ~~shall will~~ not be an enforcement violation. The ~~Bureau of Transportation~~ City Administrator ~~shall will~~ seek voluntary compliance for a period of at least 1 month before resorting to penalties.

17.107.060 Administrative Rule Authority.

~~The City Administrator may adopt administrative rules as authorized by Charter. The Director of Transportation shall adopt administrative rules necessary to achieve the purpose of this Chapter.~~

17.107.070 Fees.

The City may charge fees for Transportation and Parking Demand Management goods and services provided, including but not limited to application review, incentives and education, performance monitoring, adaptive management, and compliance and enforcement.

Chapter 17.108 Residential Energy Performance Rating and Disclosure

~~(Chapter added by Ordinance 188143, effective January 1, 2018.)~~

17.108.010 Purpose.

The purpose of this Chapter is to provide information to homebuyers about residential building energy performance. This information is designed to enable more knowledgeable decisions about the full costs of operating homes and to motivate investments in home improvements that lower utility bills, reduce carbon emissions, and increase comfort, safety and health for home owners. This Chapter ~~shall be~~ known as the Home Energy Score Program.

17.108.020 Definitions.

For purposes of this Chapter ~~17.108~~, the following terms ~~shall be~~ understood to have the meanings specified in this Section. Terms, words, phrases, and their derivatives used but not specifically defined in this Chapter ~~shall~~ have their commonly understood meanings.

A. “Accessory Dwelling Unit” means a second dwelling unit created on a lot with a house, attached house, or manufactured home. The second unit is created

auxiliary to, and is always smaller than, the house, attached house, or manufactured home. The unit includes its own independent living facilities including provision for sleeping, cooking, and sanitation, and is designed for residential occupancy by one or more people, independent of the primary dwelling unit.

B. “Administrative Rule” means the rules promulgated under Section 17.108.030 of Chapter 17.108.

C. “Asset Rating” means a numerical value calculated by a home energy performance score system. The asset rating is an easy-to-produce rating designed to help homeowners and homebuyers gain useful information about a house's energy performance and recommendations on cost-effective energy efficiency improvements. For existing houses, the asset rating is produced based on an in-house assessment that can be completed in less than an hour. For new houses, the asset rating may be produced based on design documents for the house.

D. “Covered Building” means any residential structure containing a single dwelling unit or house, regardless of size, on its own lot. “Covered building” also includes attached single dwelling unit, regardless of whether it is located on its own lot, where each unit extends from foundation to roof, such as a row house, attached house, common-wall house, duplex, or townhouse. “Covered building” does not include detached accessory dwelling units or manufactured dwellings. “Covered building” also does not include single dwelling units used solely for commercial purposes.

E. “Director” means the Director of the Bureau of Planning and Sustainability or ~~his or her~~their authorized representative, designee or agent.

F. “Energy” means electricity, natural gas, propane, steam, heating oil, wood or other product sold for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.

G. “Homebuilder” means an individual or business entity building new construction single dwelling unit housing within the City of Portland to be listed for sale.

H. “Home Energy Assessor” means a person who is certified as a home energy assessor by the Oregon Construction Contractors Board to determine home energy performance scores for residential dwelling units.

I. “Home Energy Performance Report” means the report prepared by a home energy assessor in compliance with Oregon Administrative Rules adopted by Oregon Department of Energy for Oregon Home Energy Score Standard. The Report must include the following information:

1. The home energy performance score and an explanation of the score;
2. An estimate of the total annual energy used in the home in retail units of energy, by fuel type;

3. An estimate of the total annual energy generated by on-site solar electric, wind electric, hydroelectric, and solar water heating systems in retail units of energy, by type of fuel displaced by the generation;
4. An estimate of the total monthly or annual cost of energy purchased for use in the covered building in dollars, by fuel type, based on the current average annual retail residential energy price of the utility serving the covered building at the time of the report and the average annual energy prices of non-regulated fuels, by fuel type, as provided by the Oregon Department of Energy;
5. The current average annual utility retail residential energy price in dollars, by fuel type, and the average annual energy prices of non-regulated fuels, by fuel type, provided by the Oregon Department of Energy and used to determine the costs described in Subsection 17.108.020 I.4. of this section;
6. At least one comparison home energy performance score that provides context for the range of possible scores. Examples of comparison homes include, but are not limited to, a similar home with Oregon's average energy consumption, the same home built to Oregon energy code, and the same home with certain energy efficiency upgrades;
7. The name of the entity that assigned the home energy performance score and that entity's Construction Contractors Board license number if such a license is required by law;
8. The date the building energy assessment was performed; and
9. For reports that meet all requirements of Oregon Administrative Rules adopted by Oregon Department of Energy for Oregon's Home Energy Performance Score Standard, the statement "This report meets Oregon's Home Energy Performance Score standard" must be included on home energy performance reports.

J. "Home Energy Performance Score" means an asset rating that is based on physical inspection of the home or design documents used for the home's construction.

K. "Home Energy Performance Score System" means a system that incorporates building energy assessment software to generate a home energy performance score and home energy performance report. Examples of home energy performance score systems include, but may not be limited to, the U.S. Department of Energy Home Energy Score, the Energy Performance Score (EPS) or the Home Energy Rating System (HERS).

L. "House" means a detached dwelling unit located on its own lot.

M. “Listed publicly for sale” means listing the covered building for sale by printed advertisement, internet posting, or publicly displayed sign.

N. “Manufactured Dwelling” means a dwelling unit constructed off of the site which can be moved on the public roadways. Manufactured dwellings include residential trailers, mobile homes, and manufactured homes.

O. “Manufactured Home” means a manufactured dwelling constructed after June 15, 1976 in accordance with federal manufactured housing construction and safety standards (HUD code) in effect at the time of construction.

P. “Mobile Home” means a manufactured dwelling constructed between January 1, 1962, and June 15, 1976, in accordance with the construction requirements of Oregon mobile home law in effect at the time of construction.

Q. “Real estate listings” means any public real estate listing of homes for sale in the City of Portland. “Real estate listings” include listing a home for sale by a property owner or by a licensed real estate agent. “Real estate listings” include any printed advertisement, internet posting, or publicly displayed sign, including but not limited to Regional Multiple Listing Service, Redfin, Zillow, Trulia and other third party listing services. “Real estate listings” are required to include the Home Energy Performance Score and the Home Energy Performance Report.

R. “Residential Trailer” means a manufactured dwelling constructed before January 1, 1962, which was not constructed in accordance with federal manufactured housing construction and safety standards (HUD code), or the construction requirements of Oregon mobile home law.

S. “Sale” means the conveyance of title to real property as a result of the execution of a real property sales contract. “Sale” does not include transfer of title pursuant to inheritance, involuntary transfer of title resulting from default on an obligation secured by real property, change of title pursuant to marriage or divorce, condemnation, or any other involuntary change of title affected by operation of law.

T. “Seller” means any of the following:

1. Any individual or entity possessing title to a property that includes a covered building, or
2. The association of unit owners responsible for overall management in the case of a condominium or other representative body of the jointly-owned building with authority to make decisions about building assessments and alterations, or

17.108.030 ~~Authority of Director to Adopt~~Administrative Rules.

The City Administrator may adopt administrative rules as authorized by Charter.

~~The Director is authorized to administer and enforce provisions of this Chapter.~~

~~A. The Director is authorized to adopt administrative rules, procedures, and forms to implement the provisions of this Chapter.~~

~~1. Any rule adopted pursuant to this section shall require a public review process. Not less than 10 nor more than 30 days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.~~

~~2. During the public review, the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendations; taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director and with the City Auditor's Portland Policy Documents repository.~~

~~3. Notwithstanding Subsections 17.108.030A.1. and 2. of this Section, an interim rule may be adopted by the Director without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any interim rule adopted by the Director shall be effective for a period no longer than one year after the date that the interim rule is adopted. Within 5 business days of the adoption of an interim rule, the Director shall provide notice of the rule, giving the language of the rule change, describing the purpose of the rule, and inviting the submission of comments. At a minimum, notice will be provided to the following:~~

~~a. Neighborhood associations recognized by the City Office of Neighborhood Involvement;~~

~~b. District Coalitions recognized by the City Office of Neighborhood Involvement, and~~

~~c. Persons on the list maintained by the Director of parties interested in the Home Energy Score Program.~~

~~B. The Director may temporarily suspend or modify the requirements of this Chapter based on a determination that such requirements are temporarily infeasible due to economic or technical circumstances. The Director's determination to temporarily suspend or modify shall be filed as a report with the City Council. The Director's determination shall be effective after the Council has accepted the report.~~

17.108.040 Energy Performance Rating and Disclosure for Covered Buildings.

Prior to publicly listing any covered building for sale, the seller of a covered building, or the seller's designated representative, ~~shall~~must:

A. Obtain a home energy performance report of such building from a state licensed home energy assessor, and;

B. Provide a copy of the home energy performance report:

1. To all licensed real estate agents working on the seller's behalf; and
2. To prospective buyers who visit the home while it is listed publicly for sale; and
3. To the ~~Director~~City Administrator for quality assurance and evaluation of policy compliance.

C. Include the Home Energy Performance Score in all real estate listings, including the Home Energy Performance Report if attachments are accepted by the listing service.

17.108.050 Exemptions and Waivers.

A. The ~~City Administrator~~Director may exempt a seller from the requirements of this Chapter if the seller submits documentation that the covered building will be sold through of any of the following:

1. A foreclosure sale,
2. A trustee's sale,
3. A deed-in-lieu of foreclosure sale, or
4. Any pre-foreclosure sale in which seller has reached an agreement with the mortgage holder to sell the property for an amount less than the amount owed on the mortgage.

B. The ~~City Administrator~~Director may exempt a seller from the requirements of this Chapter after confirming that compliance would cause undue hardship for the seller under the following circumstances:

1. The covered building qualifies for sale at public auction or acquisition by a public agency due to arrears for property taxes,
2. A court appointed receiver is in control of the covered building due to financial distress,
3. The senior mortgage on the covered building is subject to a notice of default,

4. The covered building has been approved for participation in Oregon Property Tax Deferral for Disabled and Senior Citizens, or equivalent program as determined by the [City Administrator](#)~~Director~~, or

5. The responsible party is otherwise unable to meet the obligations of this Chapter as determined by the [City Administrator](#)~~Director~~.

C. The [City Administrator](#)~~Director~~ may exempt a seller from the requirements of this Chapter where the [City Administrator](#)~~Director~~ determines that compliance with the requirements of Section 17.108.040 would cause undue hardship under any of the following circumstances:

1. The low-income qualified seller demonstrates household income is at or below 60 percent of median household income for the Portland-Vancouver-Hillsboro, OR-WA Metropolitan Statistical Area,

2. The low-income qualified seller has been approved for participation in Oregon Low-Income Home Energy Assistance Program,

3. The low-income qualified seller has been approved for participation in Free and Reduced Price Meals through Oregon Department of Education, or

4. The low-income qualified seller is otherwise unable to meet the obligations of this Chapter as determined by the [City Administrator](#)~~Director~~.

D. The [City Administrator](#)~~Director~~ may provide a waiver from the requirements of this Chapter for homebuilders or sellers using scoring products that are not compliant with Oregon Administrative Rules adopted by Oregon Department of Energy for Oregon's Home Energy Performance Score Standard. The waiver will allow homebuilders or sellers currently using Energy Performance Scores (EPS) or Home Energy Rating System (HERS) to temporarily continue the use of these asset rating tools.

17.108.060 Enforcement and Penalties.

A. It ~~shall be~~is a violation of this Chapter for any person to fail to comply with the requirements of this section or to misrepresent any material fact in a document required to be prepared or disclosed by this Chapter.

B. Any building owner or person who fails, omits, neglects, or refuses to comply with the provisions of this Chapter ~~shall be~~is subject to [the following](#):

1. Upon the first violation, the [City Administrator](#)~~Director~~ may issue a written warning notice to the entity or person, describing the violation and steps required to comply.

2. If the violation is not remedied within 90 days after issue of written warning notice, the [City Administrator](#)~~Director~~ may assess a civil penalty of up to

\$500. For every subsequent 180-day period during which the violation continues, the ~~City Administrator~~Director may assess additional civil penalties of up to \$500.

17.108.070 Right of Appeal and Payment of Assessments.

After being issued a written warning notice of a first violation, any person receiving a subsequent notice of violation ~~must~~shall, within 10 days of issuance of the notice, either pay to the City the stated amount of the assessment or request an appeal hearing by the Code Hearings Officer in accordance with procedures set forth in Chapter 22.10 of ~~the~~Portland City Code. The filing of an appeal request ~~shall~~will stay the effective date of the assessment until the appeal is determined by the Code Hearings Officer. If, pursuant to said appeal hearing, payment of the assessment is ordered, such payment must be received by the ~~City Administrator~~Director or postmarked within 15 calendar days after the order becomes final.

Chapter 17.109 Relocation Benefits Appeals

~~(Chapter added by Ordinance 189651, effective September 6, 2019.)~~

17.109.010 Purpose.

The purpose of this Chapter is to provide an appeal process for any displacee who is dissatisfied with any ruling on their eligibility or claim for any relocation benefit payment when the City acquires private property for public use.

17.109.020 Reconsideration Conference.

A displacee wanting to appeal must first request a reconsideration conference to afford the displacee an opportunity to present additional information that may not have been considered by the City or to correct factual errors, and for the City to reconsider the claim with the new or corrected information. The request ~~will~~must be submitted to the ~~City Administrator~~bureau director of the displacing bureau on an "Appeal of Relocation Assistance" form ~~that~~which is available from the Right of Way Agent assigned to the file.

17.109.030 Appeal to Code Hearings Officer.

A determination issued pursuant to Portland City Code 17.109.020 may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of Portland City Code.

17.109.040 Further Appeals.

All appeals from the Code Hearings Officer's determination in accordance with Section 17.109.030 will be by writ of review as authorized by Section 22.04.010 of the City Code and ORS 34.010 - 34.100.

Title 3 Administration

Chapter 3.02 Council Organization and Procedure

(Chapter replaced by Ordinance 191461, effective January 1, 2025.)

3.02.010 Council Meetings.

A. Quorum requirement.

1. Seven Councilors is a quorum. A quorum is required to conduct official Council business, except that less than a quorum may:

a. Adjourn or recess a meeting; or

b. Compel the attendance of the other Councilors.

2. If there is no quorum, the Councilors in attendance will adjourn to a fixed time or until the next scheduled regular meeting.

3. The Auditor records when a Council meeting is cancelled for lack of a quorum and the date and time when items scheduled for the cancelled meeting will be considered. The Auditor provides notice of the rescheduled date and time.

B. Telephone and virtual attendance.

1. Councilors may attend meetings by telephone or virtually.

2. Councilors who attend by telephone or virtually must notify the Auditor prior to the meeting or as soon as reasonably practicable. The Auditor must make reasonable efforts to notify all Councilors when some or all Councilors are expected to attend by telephone or virtually.

3. Except for an executive session, the Council will make available at least one place where, or at least one electronic means by which, the public can listen to the meeting at the time it occurs. If a place is provided, it may be a place where no Councilors are physically present. All other requirements of City Code and state law concerning the conduct of meetings by telephone or virtually must be met.

C. Regular meetings.

1. Time. A regular meeting will be held at least two times per calendar month, including the first week of January following each general election. Council may adopt a schedule by ordinance. If Council does not adopt a schedule, meetings will be held on the first Wednesday of the month at 9:30 a.m. and the third

Wednesday of the month at 6:00 p.m. A recessed session of a Wednesday meeting will be held at 2:00 p.m. on that Wednesday or the following Thursday at 2:00 p.m. When a meeting falls on a legal holiday, the meeting will be held on the next succeeding business day at the same hour or, upon motion adopted by Council during a regular meeting at least 14 days prior, on the day and at the time designated by Council.

2. Location. A regular meeting will be held in Council Chambers. Council may designate the location(s) of Council Chambers by ordinance. A meeting may, upon motion adopted by Council during a regular meeting at least 14 days prior, be held at a place other than Council Chambers, but the place must be within the City and satisfy public meeting requirements.

D. Special meetings.

Special meetings may be held at any time upon a request delivered to the Auditor signed by seven Councilors or the Mayor, with the written consent of six Councilors. The Auditor must electronically deliver notice of the meeting to each Councilor and to interested persons and post the notice on the City's website. The notice must include the meeting time, location, and a summary of items anticipated to be considered. Notice must be delivered and posted at least 24 hours before the meeting.

E. Emergency meetings.

1. The Council President, the Council Vice President, any four Councilors or the Mayor may call an emergency meeting with less than 24 hours' notice under any of the following circumstances:

- a.** A disaster or imminent disaster;
- b.** An emergency affecting or tending to affect the public health or safety;
- c.** War or hostile enemy action;
- d.** A civil defense alert on the immediate possibility of enemy action;
- e.** An emergency declared by the Governor; or
- f.** An emergency declared by the President of the United States.

2. The notice requirements for special meetings do not apply, but the person(s) calling the emergency meeting must notify as soon as reasonably practicable:

- a.** every other available Councilor, the Mayor, the City Administrator, and the Auditor; and
- b.** the media and other interested persons.

3. No emergency meeting may be held without the Auditor, who acts as the clerk and keeps a full and complete record of the meeting. The minutes must describe the emergency justifying less than 24 hours' notice.

4. An emergency meeting is in session upon the attendance of a quorum. Only written ordinances or resolutions connected to the emergency, a copy of which must be submitted to the Auditor before Council acts on the item, may be considered. Charter provisions relating to Council's legislative acts apply to any ordinance passed at an emergency meeting.

5. An emergency meeting may be held at a place other than Council Chambers, but the place must be open to the public and the meeting must satisfy public meeting requirements.

3.02.020 Council Agenda.

A. Notice.

At least 24 hours before each meeting, the Auditor posts the agenda on the City's website and distributes it electronically to interested persons.

B. Item submission.

1. Any Councilor, a committee of the Council, the Mayor, or the Auditor may submit an item. The President will review each item and recommend whether the item should be considered immediately by the full Council or referred to a particular committee. The Council may approve or may amend, the President's recommendations as provided in Subsection C.2. of this Section.

2. Items and all associated documents must be submitted to the Auditor before 12:00 p.m. each Tuesday of the week preceding the meeting except when otherwise required due to a legal holiday. In this event, the Auditor gives notice to the Council, Mayor, and interested parties of the revised submission deadline.

3. The Auditor, in coordination with the President, has discretion to determine that an item is complete.

4. The President, in coordination with the Auditor, has discretion to determine the meeting at which a complete item will be heard and must place complete items on an agenda in a timely manner.

5. If an item includes exhibits, the exhibits are incorporated into the item as if the exhibits were set out in full in the text of the item.

6. The City Attorney must approve contracts and amendments to contracts, amendments to Code and Charter, amendments to the Comprehensive Plan, and easements before those items are placed on the agenda.

C. Order of business.

Items on the consent and regular agendas are heard in the following order. However, before publication of the agenda, the President, in coordination with the Auditor, may order the agenda to best use Council time.

1. Agenda approval. The affirmative vote of at least a majority of Councilors in attendance is required to approve the agenda, to reorder items on the agenda, or to add an item to the next meeting's agenda.

2. President's recommendations. The affirmative vote of at least a majority of Councilors in attendance is required to approve or amend the President's recommendations under Subsection B.1. of this Section.

3. Public communications to Council.

a. A request to address Council must be submitted to the Auditor in writing and state the nature of the comment and the requester's name.

b. The Auditor notifies the requester of the date they will be heard by Council. Only five comments are heard per meeting. Requesters are limited to one comment per calendar month. Public comment is normally heard at the beginning of the regular agenda. Each requester has three minutes and may also submit written materials before or at the meeting.

4. Time certain items.

a. Time certain items must be so designated.

b. A written request must be made to the President and Auditor in accordance with administrative rule.

c. The Auditor, in coordination with the President, schedules the item and informs the office requesting the time certain designation.

d. Items will be considered as close to the designated time as possible.

e. Appeals of land use decisions or other land use matters requiring a hearing under Charter or state law must be time certain items.

5. Consent agenda.

a. Consent agenda items must be so designated.

b. Any item may be placed on the consent agenda except land use appeals, land use matters requiring a hearing and increases in budget appropriations.

6. Regular agenda.

- a. Appropriation ordinances.
- b. Emergency ordinances.
- c. Second reading of non-emergency ordinances.
- d. First reading of non-emergency ordinances.
- e. Resolutions.
- f. Reports.

(1) Council Committees.

(2) Mayor, City Administrator or Auditor.

(3) Volunteer Boards or Commissions.

D. Nine-twelfths agenda.

1. The Auditor prepares a supplementary agenda, known as the nine-twelfths agenda, containing a summary of items submitted not later than noon on the preceding Tuesday for consideration at the following meeting.
2. The written consent of at least nine Councilors, each of whom must be present when the item is considered, is required to consider an item on the nine-twelfths agenda.

E. Suspension of rules.

Items not on the agenda may be considered at any meeting if Council suspends the rules by the affirmative vote of at least nine Councilors.

3.02.030 Council Actions.

A. Non-emergency ordinance.

1. Procedure.

- a. A non-emergency ordinance has two public readings of its title.
- b. Except as provided in the Charter for ordinances granting a franchise, at least five days must pass between the introduction and passage of a non-emergency ordinance. A non-emergency ordinance cannot be amended within five days of its passage.
- c. Public testimony is three minutes per person unless the presiding officer specifies another time, and testimony is limited to the first reading unless

the presiding officer states otherwise on the record at the end of testimony at the first reading.

2. Vote requirement.

a. Quasi-judicial matter. At least seven affirmative votes are required to pass or seven negative votes are required to deny an ordinance approving, approving with conditions, or denying a quasi-judicial matter for which an application or appeal fee has been paid. The item may be continued to the next regular agenda or as directed by the Council.

b. Not a quasi-judicial matter. Except as otherwise provided in the Charter and Subsection a. above, at least seven affirmative votes are required to pass an ordinance. If there are fewer than seven affirmative votes, the ordinance fails.

c. At least seven affirmative votes are required to amend an ordinance prior to passage.

3. Effective date.

a. A non-emergency ordinance takes effect 30 days after passage unless the ordinance sets a later date or as provided in Subsection b. below. The filing of a referendum petition suspends the effective date.

b. Ordinances making appropriations and the annual tax levy and ordinances relating to local improvements and assessments take effect immediately upon passage unless the ordinance sets a date less than 30 days after passage.

B. Emergency ordinance.

1. Procedure.

a. An emergency ordinance has one public reading of its title.

b. The ordinance will state that an emergency exists and specify the facts or reasons constituting the emergency.

c. Public testimony is three minutes per person unless the presiding officer specifies another time.

d. The asterisk symbol will precede the title of each emergency ordinance.

2. Vote requirement. At least nine affirmative votes are required to pass an emergency ordinance. At least seven affirmative votes are required to amend an emergency ordinance prior to passage.

3. Effective date. Emergency ordinances take effect immediately upon passage unless the ordinance sets a date less than 30 days after passage.

C. Franchise ordinance.

1. Procedure. Procedures will be consistent with the Charter.

2. Vote requirement. At least nine affirmative votes are required to pass an ordinance granting a franchise. At least seven affirmative votes are required to amend a franchise ordinance before its passage.

3. Effective date. An ordinance granting a franchise takes effect 60 days after passage unless the ordinance sets a later date. The filing of a referendum petition suspends the effective date.

D. Resolution.

1. Procedure. A resolution has one public reading of its title. Public testimony is three minutes per person unless the presiding officer specifies another time.

2. Vote requirement. At least seven affirmative votes are required to pass a resolution or to amend a resolution before passage.

3. Effective date. A resolution becomes effective immediately upon passage unless the resolution sets another date.

E. Report.

1. Procedure. The presiding officer determines whether public testimony is received and the amount of time for each person to testify.

2. Vote requirement. At least seven affirmative votes are required if acceptance of a report is requested. No vote is required on informative reports which request no Council action; informative reports are placed on file.

3. Effective date. Acceptance of a report is effective immediately upon acceptance.

F. Quasi-judicial land use decision.

1. Procedure. Quasi-judicial land use procedures are governed by Title 33 and are identified in the mailed notice for the hearing.

2. Vote requirement. At least seven affirmative votes are required to deny or affirm an appeal of a quasi-judicial land use decision and to adopt the findings, conclusion, and order.

3. Effective date. The effective date of a quasi-judicial land use decision is identified in Title 33.

G. Consent agenda.

1. Procedure.

a. An item may be removed by a Councilor or any person. A request to remove an item must be made to the Auditor either prior to the meeting or at the meeting but before the vote on the consent agenda. A removed item will be considered individually at the same meeting.

b. The vote is a single Council vote without reading the titles of individual items. Items are not subject to amendment or debate. 2. Vote Requirement. The unanimous vote of all Councilors in attendance, and no less than nine Councilors, are required to approve the consent agenda.

H. Nine-twelfths agenda.

1. Procedure. The procedure is the same as the procedure for the type of item.

2. Vote requirement. The vote requirement is the same as the requirement for the type of item.

I. Ordinance objection.

1. Within ten days after passage of an ordinance that does not take effect immediately, any three Councilors may submit a written objection to the Auditor. The objection will be considered and voted on at the next regular meeting.

2. If at least seven affirmative votes sustain the objection, the ordinance is repealed and does not take effect unless again passed in the same manner as a new ordinance.

3.02.040 Council Rules.

A. President and Vice President election.

1. At the first regular meeting of the year, whenever the position of President or Vice President becomes vacant, or oftener at Council's option, the Council elects from its members a President and Vice President by majority vote of those in attendance.

2. The Vice President must be from a different district than the President unless no Councilor from another district is willing to serve.

3. The President or Vice President may be removed by the affirmative vote of at least nine Councilors.

4. The position of President or Vice President becomes vacant if the President or Vice President resigns the position, vacates their Councilor seat, or is removed.

5. At the first meeting in 2025 and until the first President is elected, the Auditor, through the Council Clerk and assisted by legal counsel, will serve as a non-voting *ex officio* presiding officer to facilitate the election of the first President.

B. President and Vice President duties.

1. The President is the presiding officer and will:

a. Promote efficient Council operations, including the coordination and submission of agenda items to the Auditor, recommend whether submitted items are referred to the full Council or a committee, and assist in preparing the agenda.

b. Preside over Council meetings, including the preservation of order and decorum. The President:

(1) Assigns seats in Council Chambers.

(2) Sets limits for public testimony.

(3) Speaks to points of order before other Councilors. Decides questions of order subject to an appeal to the full Council by three Councilors. A Councilor called to order must immediately stop talking, but may ask the Council to rule without debate on the question of being able to continue talking.

(4) Names who speaks first when two or more Councilors speak at the same time.

(5) Allows each Councilor to speak once on an item until every Councilor choosing to speak has spoken unless the requested speech is necessary for others to understand the issue being considered.

(6) Ensures Councilors confine themselves to the question under debate and refrain from personal criticism.

(7) Allows sufficient time for an amendment before ordering a roll call vote. No amendment may be made during the vote.

c. Sign items accepted by and requiring execution or agreement by Council.

2. The President may delegate any duties to the Vice President during the President's absence or at the President's discretion.

3. The Vice President acts as the presiding officer at Council meetings in the President's absence. If the position of President is vacant, the Vice President acts as President until Council elects a new President.

4. When a quorum attends a Council meeting, but the President and Vice President are absent, the presiding officer will be:

- a.** The Councilor who most recently served as President; or
- b.** If no Councilor in attendance served as President, the Councilor who most recently served as Vice President; or
- c.** If no Councilor in attendance served as President or Vice President, the Councilor from the same district as the President whose last name is first in alphabetical order.

C. General rules of procedure.

- 1.** The Committee Chair or elected official submitting an item speaks first on the item.
- 2.** Voting order. In roll call votes, the presiding officer votes last. Other Councilors vote by district in numerical order, then by alphabetical order of last name within each district. The district order is rotated the first day of each calendar quarter, with the previously first district rotated to the last position.
- 3.** Suspension of rules. At least nine affirmative votes, or the unanimous consent of the Council with at least nine members in attendance, are required to suspend a rule in this Chapter; however, Council may not suspend a rule that reflects a Charter provision.

D. Motions.

- 1.** A motion is only considered if it is seconded. If a motion is seconded, the presiding officer clearly states the motion before debate and, if requested by a Councilor, has the motion reduced to writing.
- 2.** Only the following motions, considered in descending priority with Subsection 2.a. having the highest priority, may be made when a question is under debate:
 - a.** Lay the matter on the table;
 - b.** Call for the previous question;
 - c.** Postpone to a date certain or postpone indefinitely;
 - d.** Refer to a committee; or
 - e.** Amend.

3. A Councilor may withdraw their motion at any time before an amendment is made to it or, if no amendment is made, before a vote is taken on it.

4. A motion with several elements may be divided. But the Councilor who made the initial motion may designate which element is voted on first.

5. A motion to call the question requires an affirmative vote of at least a majority of Councilors in attendance.

6. Motion for reconsideration.

a. A Councilor who voted with the prevailing side may move for reconsideration. Any Councilor may second the motion.

b. A motion for reconsideration may only be made once per item.

c. The motion must be made before the adjournment of the meeting when the item was considered by Council.

d. The prevailing side for purposes of moving to reconsider an emergency ordinance is the side which prevented the emergency ordinance from passing.

7. A motion to recess, adjourn, or compel attendance requires an affirmative vote of at least a majority of the Councilors in attendance. A motion to adjourn is decided without debate. If a motion to adjourn has been put to a vote, and failed, it is not considered again until some other business has been considered.

E. Robert's Rules of Order.

Robert's Rules of Order Newly Revised resolves procedural questions not covered by these rules.

3.02.050 Council Committees.

A. Formation. By resolution, Council may form and terminate standing, special, or other committees to assist Council's legislative function. The resolution specifies the subject matter, duties, membership, and chair of each committee.

B. Authority. A committee has only those duties delegated by Council resolution. No committee has authority to make decisions that bind the Council or the City. Committees are advisory bodies to the Council and may only make recommendations upon matters referred to them by the Council, and all such recommendations are subject to Council's final determination.

C. Membership. Committees must be composed of less than a quorum of Council. A committee generally consists of four to six Councilors, with at least one Councilor but no more than two from each district. A quorum is a majority of committee members.

D. Rules. Council may adopt committee rules and procedures by resolution.

E. After an item has been referred to a committee, the Council may withdraw the item and return it to the full Council by an affirmative vote of at least seven Councilors.

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

A. To preserve order and decorum, the presiding officer or designee may direct that any person who disrupts any Council meeting, or any person who engages in dangerous or threatening behavior, after first having been warned to cease and desist from such disruption or dangerous or threatening behavior, be ejected or excluded from Council Chambers or such other place as the Council may be in session.

B. For purposes of this Section, an ejection is an order made by a Person-in-Charge to immediately leave the meeting, and an exclusion is an order made by the City Administrator or their designees prohibiting a person from entering or remaining at future meetings for a specified period of time.

C. The presiding officer or designee may rely on information provided by any Councilor, the Mayor, City Administrator, City staff or Person-in-Charge as designated in Code Section 3.18.010 who is physically present at the Council meeting that a person has disrupted the meeting or engaged in dangerous or threatening behavior.

D. Ejection or exclusion shall be issued in the following manner:

- 1.** The presiding officer or designee will give a warning to the person engaging in disruptive, dangerous or threatening behavior. If the person engaging in disruptive, dangerous or threatening behavior does not cease that behavior following the warning, the presiding officer or designee will issue an ejection. An ejection shall be for the remainder of the session at which the disruptive, dangerous or threatening behavior has occurred.

- 2.** For purposes of this Section, a person disrupts a meeting of the Council if the person engages in any conduct that obstructs or impedes the orderly carrying on of the business of the meeting. Such conduct includes, but is not limited to: any conduct that substantially prevents any other person from hearing, viewing or meaningfully participating in the meeting; any conduct that substantially interferes with ingress or egress to or free movement within the Council Chambers or such other place as the

Council may be in session; shouting over, or otherwise disrupting, any person who is recognized by the presiding officer; any conduct that substantially interferes with City business conducted by City staff present at the session; or failure to obey any reasonable direction of the presiding officer.

- 3.** A direction of the presiding officer is reasonable if it is reasonably related to maintaining order and decorum. A direction of the presiding officer is not

reasonable if it is directed to speech or conduct the right to engage in which is, under the circumstances, protected by the federal or Oregon constitution.

4. For purposes of this Section, behavior is dangerous or threatening if a reasonable person, exposed to or experiencing such behavior, could believe that the person was in imminent danger of physical harm from the behavior. Notwithstanding the provisions of this Section, if the presiding officer reasonably believes that a person's dangerous or threatening conduct constitutes an emergency, the presiding officer is not required to give the person a warning before ordering the person ejected.

E. If a person has previously been ejected for dangerous or threatening behavior before the Council within 1 year before the date of the present ejection, or for disruptive behavior on three or more separate occasions within 1 year before the date of the present ejection, the person shall be excluded from Council meetings for 30 days. Written notice of such exclusion shall be given as provided in this Section.

F. If a person has been excluded from the Council on one or more occasions within 1 year before the date of the present exclusion, the person shall be excluded from Council meetings for 60 days. Written notice of such exclusion shall be given as provided in this Section.

G. The City Administrator or their designees, shall give written notice of any exclusion issued under this Section, and the person excluded may appeal the exclusion to the Code Hearings Officer in the manner provided under Section 3.18.030.

H. Notwithstanding any other provisions of this Code, the Hearing Officer's review of the question of whether the excluded person in fact engaged in disruptive, dangerous or threatening behavior shall be based upon the audio and video record of the meeting, applying the criteria described in this Section. Under no circumstances shall the presiding officer or any Councilor be compelled to testify at the hearing, or in any proceeding connected therewith. The exclusion shall be stayed upon the filing of the notice of appeal, but any stayed exclusion shall be counted in determining the length of any subsequent exclusion under this Section. If any exclusion is reversed on appeal, the effective periods of any exclusions that are not reversed shall be adjusted accordingly. If multiple exclusions issued to a person are simultaneously stayed, the effective periods for those which are affirmed shall run consecutively.

I. It shall be unlawful for any person to be in the Council Chambers or in any other place where the Council is meeting, at any time during which there is in effect an ejection or an exclusion of the person from Council meetings.

J. An exclusion issued under this Section does not affect or limit the right of the person excluded to submit written testimony or materials to the Auditor, acting as Council Clerk, for inclusion in the record and for consideration by the Council, or otherwise lawfully to petition or seek redress from the City or its elected officials.

K. The provisions of this Section apply to any public meeting of a City board or commission. If a person engages in disruptive, dangerous or threatening behavior at a public meeting of a City board or commission, any Person-in-Charge may eject that person by applying the provisions of this Section.

3.02.070 Auditor Authority.

The Auditor is authorized to adopt rules, procedures, and forms to implement the provisions of Chapter 3.02. "Auditor" in Chapter 3.02 means the Auditor or the Auditor's designee.

Chapter 3.04 Subpoena Powers

3.04.010 Legislative Subpoena Power.

~~(Amended by Ordinance 188362, effective May 10, 2017.)~~

A. For the purpose of compelling the attendance of witnesses or the production of records, the Council may by resolution direct the Mayor or the Auditor to issue a subpoena under the seal of the City.

B. After issuance, the subpoena ~~shall~~must be served in the manner of service as prescribed by State law for delivery of a summons by civil process in a court of competent jurisdiction. A return of service ~~must~~shall be delivered to the authority who issued the subpoena within 10 days after its delivery to the person for service, with proof of service of the subpoena or that the person cannot be found.

C. The witness fees and mileage to be paid ~~shall be~~are the same as prescribed by State law for witnesses in the Circuit Court of the State for Multnomah County. Witnesses ~~shall~~will be reimbursed by the City, from funds as directed by the Council.

D. It is unlawful for any person so subpoenaed and served to neglect or refuse to attend at the proper time and place and to bring the records mentioned in the subpoena, or, having done so, to refuse or neglect to answer such questions as may be applicable to the matter under investigation or to allow the records to be examined, unless the person has first sought and obtained an order quashing the subpoena from a court of competent jurisdiction, in the same manner as provided for in a civil case. Failure to seek and obtain such an order waives any objections or defenses the person may have against compliance with the subpoena, whether or not the person made any specific objection or raised that specific defense in seeking the order to quash

E. A witness ~~shall~~may not be required to answer any question or to act in violation of the witness's rights under the constitutions of the State or of the United States.

F. For purposes of this Chapter ~~3.04~~, “records” ~~shall~~ means any books, paper, documents or other information, in whatever format or however stored.

3.04.020 Administering Oaths to Witnesses.

~~(Added by Ordinance 188362, effective May 10, 2017.)~~

The Presiding Officer of Council may administer oaths to any subpoenaed witnesses in any proceedings under the Council’s examination.

3.04.030 Enforcement of Legislative Subpoena.

~~(Added by Ordinance 188362, effective May 10, 2017.)~~

A. If a person subpoenaed as provided in Section 3.04.010 fails to appear to testify or fails to produce any records as required, or whenever any person so summoned refuses to answer any question pertinent to the subject under inquiry, the City Attorney may apply to any court of competent jurisdiction for an order to the person to attend and testify, or otherwise to comply with the subpoena.

B. The City Attorney’s application to the court may seek an order requiring the person against whom the subpoena is directed to comply with the subpoena within three days after service of the order, or within such further time as the court may grant, or to justify the failure within that time.

Chapter 3.05 ~~City~~ Auditor’s Audit Services Division

~~(Chapter replaced by Ordinance 170381, effective August 16, 1996.)~~

3.05.010 Independence.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

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

3.05.020 Scope of Audits.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

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

3.05.030 Annual Audit Plan.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

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

3.05.035 Special Audits.

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

3.05.040 Access to Information.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

In accordance with City Charter, subject to collective bargaining obligations to the City's recognized bargaining units, the Auditor ~~shall~~will have timely access to all employees, information and records required to conduct an audit or otherwise perform audit duties, including confidential and legally privileged information and records so long as privilege is not waived as to third parties. All officers and employees of the City of Portland ~~shall~~will timely furnish the Auditor with requested information and records within their custody regarding powers, duties, activities, organization, property, financial transactions and methods of business required to conduct an audit or otherwise perform audit duties. In addition, they ~~shall~~will provide timely access for the Auditor to inspect all property, equipment and facilities within their custody. If such officers or employees fail to timely produce the aforementioned information, then the Auditor, subject to ~~Council~~the Mayor's approval, may, without fee, cause a search to be made and exhibits to be taken from any book, paper or record of any such official or employee, excepting personal information, and every office having the custody of such records ~~shall~~will make a search and forward such requested exhibits to the Auditor.

3.05.045 Confidential Information.

~~(Added by Ordinance 183217; amended by Ordinance 188842, effective March 30, 2018.)~~

The Auditor shall will not disclose confidential or legally privileged information and records and shall will be subject to the same penalties as the legal custodian of records for any unlawful or unauthorized disclosure. The Auditor shall will maintain the confidentiality of information submitted in confidence and the identity of the provider of such information to the extent allowed by law, except as the Auditor deems necessary to discharge the Auditor's duties or as directed by the District Attorney pursuant to a public records request or by a court of competent jurisdiction.

3.05.050 Response to Audit.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

A final draft of each audit report that contains recommendations will be forwarded to the auditee ~~and the Commissioner in Charge~~ for review and comment before it is released. The auditee must respond in writing, through the City Administrator, to such reports -specifying agreement with audit findings and recommendations or reasons for disagreement with findings and/or recommendations, plans for implementing solutions to identified problems and a timetable to complete such activities. The response must be forwarded to the Auditor within the time frame specified by the Auditor. The Auditor will include the full text of auditee ~~and Commissioner~~ responses in the report.

3.05.060 Audit Reports.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

- A. Each audit will result in a written report.
- B. Reports are to be issued promptly so as to make information available for timely use by the Council, ~~management~~ the Mayor, the City Administrator and other interested parties.
- C. The Auditor will submit each audit report to the Council, the Mayor, and the City Administrator and will retain a copy as a permanent record.
- D. If appropriate, the audit report shall will contain the professional opinion of the Auditor or the contract auditor concerning the financial statements issued by the auditee or if the audit is a performance audit, the report will contain the professional conclusions of the audit regarding the management activities audited.
- E. To the extent required by generally accepted government auditing standards, ~~A~~ audit reports issued by the Auditor shall will contain:

1. A statement of audit objectives and a description of the audit scope and methodology;
2. A statement that the audit was performed in accordance with generally accepted government auditing standards;
3. A description of all significant instances of non-compliance and abuse and all instances of illegal acts found during or in connection with the audit;
4. A full discussion of audit findings and conclusions, including the cause of problem areas and recommendations for necessary or desirable action;
5. A statement of all significant management controls that were assessed and any significant weaknesses found;
6. Pertinent views of responsible officials concerning audit findings, conclusions and recommendations;
7. A listing of any significant issues needing further study and consideration;
8. A description of noteworthy accomplishments of the auditee.

3.05.065 Report of Irregularities.

If the Auditor detects apparent violations of law or apparent instances of malfeasance or nonfeasance by an officer or employee or information that indicates derelictions may be reasonably anticipated, the Auditor shall will report the irregularities to the Commissioner in Charge and the Mayor and City Administrator. If the irregularity is criminal in nature, the Auditor shall will immediately notify the City Attorney and the District Attorney in addition to those previously cited.

3.05.070 Contract Auditors, Consultants, and Experts.

(Amended by Ordinance 188842, effective March 30, 2018.)

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

In choosing the outside independent auditors to conduct the City's annual financial statement audit, the Auditor will convene a committee of at least three City bureau managers/officials, including the Auditor or the Auditor's representative to prepare a request for proposal and to screen applicants. The Auditor's selection of a certified

public accounting firm for the annual financial audit must be approved by ~~Council~~the Mayor. Normally, this contract will be for a three-~~to five~~-year period.

3.05.080 External Quality Control Review.

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

Chapter 3.06 Office of the City Administrator

(Chapter replaced by Ordinance 191740, effective January 1, 2025.)

3.06.010 Organization.

By Charter, the City Administrator is appointed by the Mayor, subject to Council confirmation. The Office of the City Administrator consists of the City Administrator and subordinate employees as authorized by budget. The City Administrator may appoint one or more Assistant City Administrator or Deputy City Administrator and may delegate Charter and Code responsibilities to the City Administrator's appointees, and other subordinate offices and employments. In the event of a vacancy in the position of City Administrator, the Mayor or the Mayor's designee will fulfill the responsibilities of the position until the office is filled.

3.06.020 Responsibilities.

The City Administrator has those responsibilities identified in the Charter and the Code. The Mayor may assign responsibilities and delegate authority to the City Administrator. The City Administrator's responsibilities are broadly construed. In addition to any other assigned responsibilities, the City Administrator, without limitations, may:

- A.** In consultation with the Mayor, align bureaus and all other offices and programs into service areas.
- B.** Provide planning, policy development, project management and implementation, and fund management for City or intergovernmental programs.
- C.** Adopt administrative rules and procedures.
- D.** Carry out all quasi-judicial functions delegated by the Council.

E. Determine if any service should be provided by the City or outside vendors; manage public contracting under Portland City Code Chapter 5.10 and Portland Public Contracting Rules.

F. Upon delegation by the Mayor, and consistent with the budget, authorize, negotiate, and execute all contracts, legally binding agreements, and intergovernmental agreements.

G. In consultation with the City Attorney to undertake action as allowed under ORS Chapter 46, appear in small claims court for recovery of money, damages or specific personal property, including asserting counterclaims, cross-claims, or third-party claims; issue writs to execute small claims court judgments.

H. Manage all City assets.

I. Oversee and manage City security program and operations, and enforce Rules of Conduct and City Property Exclusions, in accordance with Chapter 3.18.

J. Oversee the management of public information, including internal and external communications and media requests.

K. Oversee responses to the crisis of homelessness.

3.06.030 Risk Management.

The City Administrator oversees the City's Risk Management division, which is supervised by a Risk Manager. The Risk Management division will have the responsibilities described in Charter, Code, and policy and, without limitation, may:

A. Administer, coordinate, and control all activities related to commercial and self-insurance including, but not limited to, property and casualty insurance, workers' compensation insurance, liability insurance, and the City's right to subrogation on these insurance programs. These activities include:

- 1.** Obtaining a public liability insurance policy or providing the necessary funding through a self-insurance program protecting the City, its officers, agents and employees with limits of not less than the maximum statutory limits of liability imposed on municipalities of the State of Oregon.

- 2.** Administering workers' compensation insurance in accordance with the laws for the State of Oregon and on a self-insurance basis.

- 3.** Maintaining records relating to commercial and self-insurance losses or claims filed against the City and executing any claim or proof of loss for damage to City property.

B. Monitor and coordinate a City loss prevention and control program to minimize potential property, liability, fidelity and personnel losses.

C. Evaluate and approve applications for self-insurance programs in lieu of commercial insurance requirements in any City agreement, including but not limited to contracts and permits.

D. Act on behalf of the City on all matters related to workers' compensation, including but not limited to the authority to:

1. Accept, deny, or defer claims;

2. Authorize payments of benefits in the amounts required by law relating to claims filed with the City; and

3. Enter into settlements of claims, whether through disputed claims disposition agreements or disputed claim settlements, subject to the provisions of the Charter governing settlements.

E. Act on behalf of the City in the investigation, evaluation, and settlement of property damage, general liability, bodily injury, personal injury, employment practices, and other claims brought against the City under the Oregon Tort Claims Act or under state or federal civil rights laws, including complaints of discrimination filed with the Civil Rights Division of the Oregon Bureau of Labor and Industries or the Equal Employment Opportunity Commission, subject to the provisions of the Charter governing settlements. In doing this work, the City Administrator, Risk Manager, and designees will be agents of the City Attorney acting on behalf of the City. Settlement of claims and court actions alleging employment discrimination or violations of employees' civil rights will be subject to concurrence of the City Administrator and the Director of the Bureau of Human Resources.

F. Settle claims in amounts not exceeding \$50,000, subject to the provisions of the Charter governing settlements.

G. Settle fair and moral claims governed by Section 1-107 of the Charter.

3.06.040 Revenue and Financial Services.

The City Administrator oversees centralized financial services, revenue and tax collection, business regulation, treasury, procurement, financial reporting and compliance, pension oversight, municipal financing and debt management, and other financial or revenue services or responsibilities as may be assigned, and without limitation may:

A. Establish, maintain, and enforce financial and accounting, policies, rules, and procedures.

B. Establish internal control systems to preserve City assets and report accurate financial results; interpret accounting and financial reporting policies and practices.

C. Prepare reports of the City's fiscal condition and conduct financial and compliance audits and other tests to determine compliance with City accounting and financial reporting policies and current professional standards and adequacy of internal controls over accounting transactions.

D. Manage and oversee revenue development and collection activities, including but not limited to collection of debts, lien assessment and foreclosure, and regulation and collection of taxes; and, in conjunction with the City Attorney's office, authorize legal action including litigation to recover debts owed to the City.

E. Designate a City Treasurer to do the following, in addition to any other assigned responsibilities: manage centralized banking, merchant, and investment services; open, maintain, and close bank accounts in the name of the City; take custody of all moneys paid to the City for deposit and withdrawal; determine appropriate public funds investment; and administer foreclosure sale processes. A City Treasurer will not be liable for bank failure or bankruptcy, or loss of deposits in these situations, when deposits have been made in accordance with Charter, Code and policy.

F. Administer the City's debt management program, including but not limited to: providing technical assistance on financing programs, coordinating bond disclosure filings, overseeing municipal debt issuance and refinancing existing debt, and overseeing arbitrage compliance program.

G. Manage and oversee all incoming federal, state, and private grants, and outgoing special appropriations grants and contracts.

Chapter 3.10 Office of City Attorney

~~(Chapter replaced by Ordinance 155956, effective June 11, 1984.)~~

3.10.010 Office of City Attorney.

~~(Amended by Ordinance 165112, effective February 26, 1992.)~~

The Office of the City Attorney ~~shall~~ consists of the City Attorney and such subordinate ~~employees-positions~~ as the Council may provide. The deputies of the City Attorney ~~shall-will~~ be appointed by the City Attorney in writing and ~~shall-will~~ continue in service during the City Attorney's pleasure. In the event of a vacancy in the position of the City Attorney, the deputies ~~shall-will~~ continue in office with a Chief Deputy serving as acting City Attorney until such time as the Council appoints a new City Attorney.

3.10.020 General Organization.

~~(Repealed by Ordinance 165112, effective February 26, 1992.)~~

3.10.0230 Duties and Responsibilities.

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

- A. Appear for, represent, and defend the City, and its boards, commissions, bureaus, officers, employees and persons entitled to representation under the Oregon Tort Claims Act in all appropriate legal forums and matters. However, other than as required by the Tort Claims Act and except as provided in 3.10.0230 G.4., the City Attorney ~~shall~~ must not represent individuals in their personal capacity and ~~shall~~ must not represent individuals who, after investigation by the ~~OMF~~ Risk Management ~~d~~Division, are found by the Bureau to have acted outside the scope of their employment or duties or to have committed malfeasance in office or willful or wanton neglect of duty. If the City Charter specifically authorizes a commission to retain or employ its own special legal counsel, then the City Attorney ~~shall~~ will not be responsible for representing such commission on matters assigned by the commission to its special legal counsel;
- B. Review and approve as to form all written contracts, bonds, or other legally binding instruments to which the City is a party. It ~~shall is be~~ the responsibility of the City officials or employees who prepare such documents to submit the documents to the City Attorney for review;
- C. Give legal advice and opinions orally and in writing and prepare legal documents and ordinances for the Mayor, any Council member, the City Council, the City Administrator, or any board, bureau, committee, commission, or agency of the City;
- D. Periodically submit to Council reports summarizing the amount, type, and cost of legal services required by the City in the preceding year and highlighting significant legal cases and trends involving the City;
- E. Seek to ensure that City employees comply with legal and ethical requirements of public employment by providing advice, direction and opinions;
- F. Seek to prevent legal problems for the City by training, directing and educating City employees about legal issues;
- G. Institute appeals on behalf of the City for enforcement of regulations or license requirements including such payments established by Charter, Code, ordinance, or statute, and for collection of any account receivable, and appeal in any case in which the opposing side another party first has appealed, as the City Attorney deems advisable;
- H. File a notice of appeal, a petition for writ of mandamus, or any action for

emergency relief in situations where the City Attorney believes doing so is advisable and it is not practicable to obtain a Council resolution or written approval of the Mayor in the time to do so. The City Attorney shall will seek Council or Mayoral authorization to continue such proceeding as soon as practicable and shall immediately dismiss any may continue the proceeding if the that the Council or Mayor sodeclines to authorizes.

- I. For other matters, On direction by resolution of the Council or upon written approval of the Mayor: ~~Institute legal proceedings and appeals for the City in any court or tribunal on direction by resolution of the Council or upon written approval of the Mayor, including but not limited to:~~ ~~and as otherwise provided in this section.~~ ~~The City Attorney may institute appeals on behalf of the City for enforcement of regulations or license requirements including such payments established by Charter, Code, ordinance, or statute, and for collection of any account receivable, and may appeal in any case in which the opposing side first has appealed, as the City Attorney deems advisable. The City Attorney shall prosecute other appeals upon written approval of the Mayor and for good cause shown. on direction by resolution of the Council. The City Attorney may also upon approval of the~~ Commissioner In Charge ~~and for good cause shown:~~

1. Institute legal proceedings and appeals and assert counterclaims, cross-claims, or third-party claims for the City in any court or tribunal;
2. Seek enforcement of any regulation or license requirement including the payment of any fee, penalty, or interest, established by Charter, Code, ordinance, or statute, and collection of any account receivable ~~and may assert a counterclaim, a cross-claim, or a third-party claim;~~
3. File in the appropriate forum the original or duplicate copies of a complaint for interpleader whenever the City ~~shall comes~~ into possession of property in which it has no claim and on which multiple claims have been made by other parties;
4. File briefs and related motions as amicus curiae in any appeal or other proceeding where legal issues are of interest to the City;
5. Represent City employees in their personal capacity in legal proceedings that have a connection to their City employment and are related to their personal safety, including but not limited to initiating affirmative litigation on behalf of affected City employees when they petition courts for restraining orders, injunctions, and other protections and remedies;
- ~~1. File a notice of appeal to protect the City's legal right to appeal in situations where the City Attorney believes an appeal is advisable and it is not practicable to obtain a Council resolution in the time allowed to~~

~~perfect an appeal. The City Attorney shall seek Council authorization by resolution to continue the appeal as soon as practicable and shall immediately dismiss any appeal which Council declines to authorize by resolution.~~

3.10.0340 Chief Deputy City Attorney.

~~(Amended by Ordinance 165112, effective February 26, 1992.)~~

The position of Chief Deputy City Attorney is hereby created and the City Attorney is authorized, from time to time to appoint one or more deputies to such positions and designate one Chief Deputy to be in charge of the Office in the absence of the City Attorney.

3.10.0450 Records.

~~(Amended by Ordinance 165112, effective February 26, 1992.)~~

The City Attorney ~~shall have~~ has charge and custody of the Office of the City Attorney and of all legal papers pertaining thereto.

3.10.0560 Attorney - Client Relationship.

~~(Amended by Ordinances 165112 and 181483, effective January 18, 2008.)~~

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

3.10.0670 Settlements.

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

- A. As the City Attorney deems advisable, after consultation with the affected

bureau, if appropriate, in cases of suits, actions, or proceedings seeking enforcement of any regulation or license requirement including payment of any fee, penalty, or interest, established by the Charter, Code, ordinance, or statute, and collection of any account receivable;

- B. With the written approval of the ~~Commissioner In Charge~~Mayor, in cases of any other suits, actions, or proceedings except for settlements requiring payment by the City in excess of \$50,000; and
- C. With the approval by ordinance of the Council in cases of suits, actions, or proceedings requiring payment by the City in excess of \$50,000.

3.10.0780 Outside Counsel Conflicts of Interest.

~~(Amended by Ordinance 165112, effective February 26, 1992.)~~

The City Attorney is authorized to waive on behalf of the City potential conflicts of interest of private legal counsel retained by the City if the City Attorney determines the waiver to be in the City's interest.

~~3.10.090 Indemnities Fund.~~

~~(Repealed by Ordinance 165112, effective February 26, 1992.)~~

Chapter 3.12 Bureau of Transportation

~~(Chapter replaced by Ordinance 182389, effective January 2, 2009.)~~

3.12.005 Purpose.

~~(Added by Ordinance 190590, effective October 27, 2021.)~~

The purpose of this Chapter is to describe the organization and functions of the Bureau of Transportation. The Bureau of Transportation ~~shall~~will be charged with the responsibility for the finance, operation, maintenance, and improvement of the transportation system. The Bureau of Transportation ~~shall~~will be responsible for management of the public right-of-way as provided under City Charter, ordinances, and Oregon law.

3.12.010 Organization.

~~(Amended by Ordinance 190590, effective October 27, 2021.)~~

The Bureau of Transportation ~~shall~~will be under the direction and control of the ~~Director of Transportation~~City Administrator. ~~†Subject to the approval of the City~~

Administrator, the Director of Transportation shall will be is responsible for the overall coordination and management of the groups of the Bureau of Transportation to as ensure the goals of the City Council are met and the mission and goals of the Bureau of Transportation are achieved. This includes responsibility for productivity, responsiveness and effectiveness of the services and programs of the Bureau of Transportation.

~~The City Administrator may adopt administrative rules as authorized by Charter. The Director of Transportation shall will have authority to issue administrative rules and regulations in addition to those specified in the Charter and this Code, as are appropriate to provide for the adequate functioning of the Bureau and to carry out the responsibilities under this Section.~~

The City Engineer shall will be is an employee within the Bureau of Transportation.

Responsibilities and authorities of the City Engineer and the City Traffic Engineer provided in this Code shall will be performed by a Professional Engineer.

3.12.020 Vision and Mission.

~~(Added by Ordinance 190590, effective October 27, 2021.)~~

The Bureau of Transportation seeks to create and maintain a safe, reliable, equitable, and affordable transportation system that supports Portland's prosperity with a high quality of life, an inclusive and connected community, and a low carbon footprint.

The Bureau of Transportation works with the community to shape a livable city. The Bureau of Transportation plans, builds, and maintains an effective and safe transportation system that provides people and businesses the access and mobility they need and deserve.

3.12.030 Duties of the Bureau of Transportation.

~~(Added by Ordinance 190590, effective October 27, 2021.)~~

For the purposes of this code, the Bureau of Transportation shall will be is responsible for:

- A.** The administration and enforcement of:
 - 1. Title 16 Vehicles and Traffic
 - 2. Sections of Title 17 Public Improvements relating to Transportation
 - 3. Sections of Title 24 relating to Transportation

3.12.040 Administrative Rules and Procedures.

~~(Added by Ordinance 190590, effective October 27, 2021.)~~

~~The City Administrator may adopt administrative rules as authorized by Charter. The Director of the Transportation may adopt, amend, and repeal rules, policies, procedures, and forms pertaining to matters within the scope of this Code.~~

A. Permanent Rules

~~1. Any adoption, amendment, or repeal of a rule pursuant to this Section requires a public review process which includes a minimum 30-day public comment period and the opportunity for a public hearing.~~

~~2. Public notice shall must be given not less than 30 days before adoption. Such notice shall must include the location at which copies of the full text of the proposed rules may be obtained and the place and time of a proposed public hearing.~~

~~3. The Director is only required to hold the public hearing if requested to do so.~~

B. Interim Rules

~~1. The Director may adopt an interim rule without prior notice upon a finding that a failure to act promptly will result in prejudice to the public interest.~~

~~2. Interim rules will be effective for a period of no longer than 120 days.~~

Chapter 3.13 Bureau of Environmental Services

~~(Chapter added by Ordinance 155385, effective December 8, 1983.)~~

3.13.010 Purpose.

~~(Amended by Ordinances 163823 and 168321, effective December 30, 1994.)~~

The purpose of this Chapter is to describe the organization, and mission of the Bureau of Environmental Services. This Bureau of Environmental Service, created by Ordinance in 1983, is committed to the proper management, protection, and, where practicable, enhancement of our natural resources.

3.13.020 Organization.

~~(Amended by Ordinances 168321, 174830 and 185397, effective July 6, 2012.)~~

The Bureau is administered by the Commissioner in charge City Administrator and led by the Director of Environmental Services. The Director works with Group Managers and their staff in pursuit of the mission. The organizational structure of

the Bureau ~~shall will~~ be determined by the Director after consultation with the ~~Commissioner in charge~~City Administrator. The Bureau of Environmental Services is responsible for design, construction, operation and maintenance of the sanitary and storm water collection and transport systems, and watershed management. ~~The Director shall have authority to issue administrative rules and regulations in addition to those specified in the Charter and this Code, as are appropriate to provide for the adequate functioning of the Bureau and to carry out the responsibilities under this Code.~~

3.13.030 Mission.

~~(Amended by Ordinances 168321 and 174830, effective September 22, 2000.)~~

The Bureau of Environmental Services serves the community by protecting public health, water quality and the environment. To achieve this, the Bureau:

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

3.13.040 Administrative Rules and Procedures.

~~(Added by Ordinance 185397, effective July 6, 2012.)~~

~~The City Administrator may adopt administrative rules as authorized by Charter.~~A. The Director of the Bureau of Environmental Services~~City Administrator may adopt, amend and repeal rules, policies, procedures, and forms pertaining to matters within the scope of this Code as authorized by Charter.~~

~~B. Any adoption, amendment or repeal of a rule pursuant to this Section requires a public review process which includes a minimum 30-day public comment period and the opportunity for a public hearing. Notice shall be given by publication in a newspaper of general circulation not less than 30 days before adoption. Such notice shall include the location at which copies of the full text of the proposed rules may be obtained and the place and time of a proposed public hearing. The Director is only required to hold the public hearing if requested to do so.~~

~~C. During the public review process, the Director shall hear testimony or receive written comment concerning the proposed rules and prepare a report of findings and recommendations. The Director shall review findings and recommendations, taking into consideration the comments received during the public review process, and shall either adopt, modify or reject proposals. If a substantial modification is made, the Director may provide additional time for the public review process. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the office of the Director and in the Portland Policy Documents repository described in Chapter 1.07.~~

~~D. Notwithstanding Subsections 3.13.040 B. and C., the Director may adopt an interim rule without prior notice if failure to act promptly would result in a threat to public health and safety or the environment. Any interim rule adopted pursuant to this Paragraph shall be effective for a period of not longer than 180 days.~~

3.13.050 Permitting Authority.

~~(Added by Ordinance 186902, effective December 26, 2014.)~~

The ~~Director of the Bureau of Environmental Services is authorized to~~City Administrator ~~may~~ develop and require permits, authorizations, inspections, and other forms of review and approval to implement and ~~en~~assure compliance with those sections of this ~~C~~eode that are administered by the Bureau of Environmental Services.

Chapter 3.14 Bureau of Human Resources

~~(Chapter added by Ordinance 191740, effective July 1, 2024.)~~

3.14.010 Organization.

~~1.~~ The Bureau of Human Resources will be supervised by a Director who will report to the City Administrator. The responsibilities of the Bureau of Human Resources will include coordination and control of the administrative and technical activities relating to maintenance of a comprehensive human resources system for the City, including labor relations and negotiations, promoting diversity and equity in outreach employment and recruitment services, classification and compensation, training and workforce development, human resources systems, payroll, deferred compensation, and employee benefits and wellness. The Director will be responsible for the health benefit plan administration and funding including the Health Insurance Fund.

3.14.020 Responsibilities.

A. ~~Unless otherwise excepted by resolution or ordinance, t~~The Director-City Administrator will formulate, administer, and monitor administrative rules ~~approved by the City Administrator that apply to all City officials and employees, including Councilors, and that~~ includes but is not limited toing provisions for:

1. Recruitment, examination, certification, and appointment on the basis of applicants' knowledge, skills, and abilities.
2. Classification and compensation.
3. Employee behavior and expectations.
4. Disciplinary guidelines with notice to employees of prohibited practices.

5. Employee training and development.

B. In accordance with Oregon law, the Director, on behalf of the City, may enter into agreements with labor organizations, recognizing their exclusive representation of specified classifications within City service.

C. Dispute Resolution.

1. The Director is the official interpreter for the City pertaining to its collective bargaining agreements and any other written compensation and benefits plans and personnel policies established by the City.

2. The City Administrator will retain the right to hear individual grievances and or complaints on a case-by-case basis. In settling such grievances and or complaints, the City Administrator will do so with the advice and consent of the Director and the City Attorney ~~and the Director. The Commissioner in-Charge of a bureau will have the City Administrator's rights in this Subsection before January 1, 2025.~~

3. If the City Administrator does not retain jurisdiction of a grievance or complaint within one week of receiving the issues, then the Director will automatically have jurisdiction to settle the issue. ~~The Commissioner in-Charge of a bureau will have the City Administrator's rights in this Subsection before January 1, 2025.~~

4. Disputes will be resolved as follows:

a. Within one day following the filing of a written grievance under a collective bargaining agreement or complaint under other written personnel policy adopted by the City Administrator, the bureau or department recipient of the grievance or complaint will provide a copy to the Director of the written grievance or other complaint document. During the investigation of grievances and complaints, the Director or designee(s) will be an agent of the Office of the City Attorney for purposes of representing the City.

b. Where the claim is for wages or other monetary benefit not exceeding \$50,000 per claimant, the ~~supervisor, division manager, or bureau director~~ City Administrator may accept or adjust the claim in settlement on behalf of the City, where settlement is deemed prudent and appropriate, provided that:

~~(1) The Commissioner in-Charge approves the settlement before January 1, 2025, or the City Administrator approves the settlement on or after January 1, 2025.~~

~~(12) The Director authorizes the settlement is in writing and gives written notice to the payroll division or to the benefits~~

~~program manager involved to draw and issue a check not exceeding \$5,000 per claim for the settlement expense, charged to the appropriate center code, account number, or fund.~~

(23) The ~~Director determines~~ settlement is in the best interest of the City and the City Attorney approves, notwithstanding any applicable Code or policy provision that requires payroll checks to be drawn only for services rendered. This Section will be narrowly applied.

(34) The City Attorney determines that the settlement agreement will not conflict with State or Federal laws, applicable ordinances, or collective bargaining agreements pertaining to conditions of employment.

~~c. Where a settlement agreement provides for payment of claims for back wages or other monetary benefit in an amount exceeding \$5,000, the settlement will not be authorized or enforceable unless approved by the Council by ordinance.~~

cd. The Director is authorized to investigate complaints and reports of employment discrimination in accordance with other Code provisions, where applicable. During the investigation of complaints and reports, the Director will be an agent of the City Attorney for purposes of representing the City.

~~e. The Director will file a report to the Mayor and City Administrator two weeks after the end of each month with respect to settlements entered into pursuant to this Section.~~

~~f. The monetary thresholds for claims and settlements identified in this Section will be increased to \$50,000 on January 1, 2025.~~

~~D. The Director will establish objectives for the bureau and develop a plan for accomplishing these objectives and carrying out the mission of the bureau.~~

ED. ~~The Director will design, manage, and administer a comprehensive and competitive Classification Plan and Compensation Plan. The Director, by express delegation by ordinance from the Council, will fix the salary range, compensation plan, and benefits plan of all officers, agents, and employees of the City. No other bureau director or subordinate employee has the authority to change the salary range, compensation plan, or benefits plan of any City officer, agent, or employee.~~

F. ~~The Director and a Benefits Manager will design, manage, and administer a comprehensive, competitive, and compliant benefits package, including the Deferred Compensation Program, as approved by the Council, including provisions for:~~

~~1. Medical, dental, and vision coverage;~~

- ~~2. A Dependent Care Assistance Plan;~~
- ~~3. A Medical Expense Reimbursement Plan;~~
- ~~4. Life insurance;~~
- ~~5. Long-term disability;~~
- ~~6. An Employee Assistance Program; and~~
- ~~7. A Deferred Compensation Program.~~

~~These provisions will include employee participation eligibility and enrollment, claims management, procedures for record-keeping, and responsibility for all applicable reporting and disclosure requirements.~~

~~G. The director's chief assistant or deputy will serve as the acting director and will perform the responsibilities of the director until a permanent successor is designated and takes office, when:~~

- ~~1. A director of any bureau or office is absent because of illness, disability, vacation, or leave of absence or when a director resigns, retires, or is discharged; and~~
- ~~2. No ordinance or written delegation of authority applies.~~

~~The City Administrator or Director is authorized to validate the positional status of any person serving as the acting director pursuant to this Section.~~

Chapter 3.15 Bureau of Technology Services.

3.15.010 Organization.

The Bureau of Technology Services will be supervised by a Director, who will be the Chief Technology Officer (CTO) and who will report to the City Administrator. The Director, subject to the approval of the City Administrator, will manage and establish citywide policies and standards, and provide technical support for all City-owned technology systems, communications systems, and all end-user technology support services, including Help Desk and Desktop Support services and the City's Geographical Information Systems, except those specifically exempted by the CTO.

3.15.020 Responsibilities.

A. The Bureau of Technology Services will:

1. Provide technology strategic planning and consulting services to the City, including project scoping, budget preparation and analysis, system planning and procurement, security analysis, resource allocation, and project management for technology projects.
2. Design, implement, and manage all technology hardware and software, including on-premises or hosted system and cyber security measures.
3. Design, implement, and manage the City's communications systems and applications, including the Integrated Regional Network (IRNE).
4. Provide all internet and intranet services to City bureaus, offices, boards, and commissions and manage the City's official website, including managing and authorizing all City domain name registrations and renewals.
5. ~~In cooperation with the City Administrator and Chief Procurement Officer, r~~Review requests for and approve the purchase of all technology software, hardware, on-premises or hosted systems, and professional technology consulting services.
6. Provide technical expertise and information for City technology projects.
7. Provide all telephone services to City bureaus, coordinate with telephone vendors, order new facilities and equipment for City-owned or leased systems, plan telephone systems, and resolve all telephone problems.

8. Provide rapid, convenient reproduction, distribution, and mail services and provide advice and consultation on these services.

9. Review ~~and approve~~ requests for the lease or purchase of office copiers/printers in compliance with procurement requirements in Code or Policy.

10. Manage the processing of U.S. mail and pickup and delivery of interoffice mail, packages, and equipment, and provide printing and distribution management services for the City.

11. Manage technology systems used to standardize and accomplish the City's business affairs.

12. Perform other responsibilities related to technology services as assigned by the City Administrator or the Mayor.

~~B. The CTO may:~~

~~1. Enter into nondisclosure agreements between the City and third parties to review confidential information, including trade secrets and information designated as proprietary or privileged, related to systems, applications, software, or hardware that may be considered for use by the City.~~

~~2. Enter into data grant agreements in consultation with the designated custodian of record.~~

Chapter 3.16 City Budget Office

(Chapter added by Ordinance 185807, effective December 12, 2012.)

3.16.010 Organization.

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

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

~~3.16.020 Authority of Council.~~

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

Chapter 3.17 Bureau of Fleet and Facilities

3.17.010 Organization.

The Bureau of Fleet and Facilities (BFF) will be supervised by ~~a Director, who will report to the~~ City Administrator. ~~The City Administrator~~BFF will ~~establish~~implement plans, policies, and standards and manage service delivery for the City's overall fleet and facility operations.

3.17.020 Responsibilities.

~~A. As directed by t~~The City Administrator, ~~BFF, through its fleet program, will have~~has the following responsibilities:

- ~~A. 1.~~ Manage, maintain, and repair of all City-owned and -leased vehicles and fleet equipment except certain identified Portland Fire & Rescue vehicles and equipment.
- ~~B. 2.~~ Develop, manage, and administer the City's fleet-related emissions reductions initiatives, including but not limited to the development of fleet transition strategies and the procurement, installation, and management of all alternative fueling and electric vehicle-charging infrastructure.
- ~~C. 3.~~ Manage and maintain City-owned and -operated fueling stations and fuel purchasing card programs.
- ~~D. 4.~~ Coordinate with emergency and public safety bureaus on fuel logistics.
- ~~E. 5.~~ Collect and analyze vehicle data and information.
- ~~— 6. Perform other duties as assigned by the City Administrator.~~

~~B. As directed by the City Administrator, BFF, through its facilities program, will have the following responsibilities:~~

- ~~F. 4.~~ Manage real properties assigned to BFF and any City-owned real properties not specifically assigned to another bureau. This includes property rights that may be assigned to BFF by the Mayor ~~or City Administrator~~ or acquired through leases, interagency agreements, and intergovernmental agreements. ~~BFF's This~~ real property management authority ~~may~~includes, but is not limited to: data and information

management; real estate portfolio, capital, and financial planning; real property acquisition and disposition in accordance with City Charter, Code, and Policies; space and occupancy planning; capital construction and improvements; operations, maintenance and repair; condominium or other building management board representation; and financial management including dues assessments and approvals.

G. 2. Manage-Negotiate and execute real property agreements, including but not limited to: acquisition and disposition agreements, leases, easements, permits, and licenses.

H. 3. Negotiate and coordinate payments for real property transactions subject to the City Administrator's authorization and limited by budget appropriation.

I. 4. Issue notices that may be appropriate or required as part of real property agreements.

J. 5. Coordinate and manage the City's excess and surplus real property program.

—6. Perform other responsibilities as assigned by the City Administrator.

Chapter 3.18 Rules of Conduct for City Property

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

3.18.010 Designation of Persons-in-Charge.

3.18.020 Rules of Conduct at City Property.

3.18.030 City Property Exclusions.

3.18.010 Designation of Persons-in-Charge.

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

A. For purposes of ordering persons to leave City Property, the following are Persons-in-Charge:

1. Any peace officer as defined by Oregon law and any reserve officer of the Portland Police Bureau.
2. Any person providing security services in any City Property pursuant to any contract with the City, or with any person, firm or corporation managing a City Property on the City's behalf.

3. Bureau property or facility manager, or designee.

- ~~4. With respect to facility or space assigned to a City bureau or City office, the director or manager of the City bureau or City office, or designee.~~
 - ~~5. The Chief Administrative Officer or the Deputy Chief Administrative Officer of the Office of Management and Finance, or any person they specifically designate in writing.~~
 - ~~1. 6. Any person with exclusion authority under the Code.~~
 3. 7. The Mayor, a Commissioner or Auditor, or City Administrator, or designee any person specifically designated in writing by either of these elected officials.
- B.** Delegation to a designee ~~shall~~ must be made in writing. Any person so designated ~~shall be~~ is a Person-in-Charge as that term is defined in ORS 164.205(5) until the delegation is terminated or the designated person ceases to be an employee or officer of the City of Portland. Copies of delegation will be provided to the City Attorney's Office and to the ~~bureau property or facility manager~~ City Administrator.
- C.** Upon request, the City ~~shall~~ will provide a copy of the Person-in-Charge designation or delegation list to the District Attorneys of Multnomah, Clackamas and Washington counties.
- D.** For purposes of this Section, "City Property" ~~shall include~~ includes any real property either owned by the City or in which the City has a property interest or property management responsibility.
- E.** For purposes of ordering persons to leave a public meeting of a City board or commission, the following are Persons-in-Charge:
1. The presiding officer of the public meeting of a City board or commission.
 2. Any person providing security services at the public meeting of a City board or commission.
 3. Any person designated as a Person-in-Charge in Subsection 3.18.010 A.
- F.** The authority granted to a Person-in-Charge by this Chapter are in addition to, and not in lieu of, any other authority granted under this Code.
- G.** For purposes of this Chapter, "City Property" means any City--owned real property, and the buildings, structures, and facilities thereon. City Property may include privately--owned real property to which the City has acquired legal rights to occupy, and control, and to exercise Person-in-Charge authority.

- H. For purposes of this Chapter, “property manager of the City Property” means the City Administrator, or designee who has the responsibility to perform property management functions.

3.18.020 Rules of Conduct at City Property.

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

- A. To maintain an environment that promotes orderly administrative and business operations, and to take reasonable and prudent actions to protect the health, welfare and safety of all persons at City Property, the Rules of Conduct in this Section apply and are to be enforced at all City Property except where specific rules of conduct or prohibitions have been adopted for designated real property the City owns or has a property interest or property management responsibilities.
- B. The Rules of Conduct for City Property are as follows:
1. No person ~~shall~~may engage in any activity that would constitute a violation of federal, state or local law or regulation.
 2. No person may deface, damage or destroy City Property or City-owned personal property.
 3. No person ~~shall~~may enter, attempt to enter or remain in any areas of City Property designated as secured or restricted, or closed to public access.
 4. No person ~~shall~~may engage in activity that disrupts or interferes with: the normal operation or administration of City business at City Property; lawful use by City employees and authorized users at City Property; or City permitted activities.
 5. No person ~~shall~~may refuse or fail to obey any reasonable direction of a Person-in-Charge of a City Property. A direction of a Person-in-Charge is reasonable: if it directs a person to obey or to cease a violation of any law or regulation; if it is otherwise reasonably related to the protection of the health, welfare or safety of the person or any other person at the City Property, or to the prevention of damage to property; or if it is reasonably necessary to preserve the peace or to prevent the disruption of City operations or permitted activities, including dangerous or threatening behavior as defined in the Code.
 6. No person ~~shall~~may possess any object specifically designed for and presently capable of causing, or carried with the intent to threaten or cause, bodily harm to another. Objects prohibited under this Paragraph include, but are not limited to, any firearm, pellet gun, spring-loaded weapon, stun gun or taser, any knife having a blade that projects or swings into position by force of a spring or by centrifugal force, any knife with a blade longer than 3-½ inches, any dirk, dagger, ice pick, sling shot, slungshot, metal knuckles,

nunchaku, studded hand coverings, swords, straight razors, tear gas, tear gas weapon, mace, pepper mace or similar deleterious agent, saps, sap gloves, hatchets or axes. The prohibitions of this Paragraph do not apply to handguns lawfully carried by persons exempt from local regulation under ORS 166.173. The prohibitions of this Paragraph do not apply to any thing possessed or used to carry out actions authorized by any contract or permit at the City Property.

7. No person ~~shall~~may smoke or carry any lighted smoking instrument at City Property in violation of Chapter 8.65. Smoking instrument additionally includes inhalant delivery system that delivers nicotine in the form of vapor or aerosol, and electronic cigarette, personal vaporizer, or electronic nicotine delivery system. Smoking additionally includes inhaling or exhaling from a smoking instrument.
8. No person ~~shall~~may make use of facility materials, equipment, furniture, or fixtures of a City Property in a manner inconsistent with their customary or designated uses, or in a manner likely to cause property damage or personal injury to the actor or others.
9. No person ~~may~~shall interfere or obstruct free passage of City employees or authorized visitors in or on City Property, including but not limited to placing objects that impede free passage.
10. No person ~~may~~shall use City Property for unauthorized storage of personal property or leave personal property unattended.
11. No person ~~may~~shall make or continue a noise disturbance as defined under Chapter 18.04, or operate sound producing device or sound producing equipment except as permitted by the ~~property manager of the City Property~~Mayor or City Administrator, or their designee. Bullhorns and megaphones are not permitted in the interior of any building on City Property, or within the loggia or portico of any structure on City Property, except as permitted by the ~~property manager for the City Property~~Mayor or City Administrator, or their designee.
12. No person ~~may~~shall sell, distribute or deliver any alcoholic beverage on City Property, except as permitted by the ~~property manager for the City Property~~Mayor or City Administrator, or their designee.
13. No person ~~may~~shall sell, distribute or deliver any controlled substances on City Property. This does not prohibit a person from providing caretaking functions or assisting another in taking legally prescribed medication. "Controlled substance" ~~shall~~haves the meaning provided in Chapter 475 of the Oregon Revised Statutes.
14. No person may bring animals onto City Property, or leave animals tethered or unattended at City Property, except as permitted by ~~the property manager~~

~~for the City Property~~the Mayor or City Administrator, or their designee. This does not preclude entry by service animals defined under the Americans with Disabilities Act while performing services or task the animals are trained to do, animals employed in official performance of police or rescue activities, or animals authorized for entry by the ~~property manager for the City Property~~Mayor or City Administrator, or their designee.

15. No person ~~may~~shall solicit for or conduct business at City Property except as permitted by the ~~property manager for the City Property~~Mayor or City Administrator, or their designee.
 16. No person ~~may~~shall use any wheeled devices, including but not limited to unicycles, bicycles, skateboards, roller skates, motorized or non-motorized scooters, inside the property boundary of City Property. All persons must dismount at City Property boundary. No bicycles and motorized wheel devices are allowed in the interior of any building on City Property except as permitted by the ~~property manager of the City Property~~Mayor or City Administrator, or their designee. The prohibition in this Paragraph does not apply to persons with mobility devices for mobility disability or medical purposes, child strollers or baby carriages.
 17. No person ~~may~~shall use City Property for housing or camping except as permitted by the ~~property manager for the City Property~~Mayor or City Administrator, or their designee and provided such use conforms with land use, zoning, building and other property regulations.
 18. No person ~~may~~shall misuse or damage the City's technology systems or network, including its telecommunication equipment and data.
 19. No person ~~may~~shall enter, attempt to enter or remain in any areas of City Property for purposes other than to conduct legitimate business with City offices or tenants located at City Property, to enjoy the publicly accessible amenities at a City Property when the City Property is open to the public, or to lawfully assemble for social or public interaction at portions of City Property specifically designated for such assembly. ~~The director of the bureau with property management responsibility for the City Property~~The City Administrator ~~may~~adopt space use policy to manage conditions for property use including but not limited to establishing a reservation protocol, priority regarding uses and users, hours of use, and fees for use.
- C. The ~~director of the bureau with property management responsibility over a City Property~~City Administrator, or designee ~~is authorized to~~may adopt additional rules of conduct for any specified City Property managed by the bureau. The proposed additional rules of conduct ~~shall~~will be posted at the City Property where such proposed rules would apply, and ~~shall~~will be deemed part of the Rules of Conduct for the City Property. ~~The proposed rules shall be final and effective no sooner than seven days after posting. Upon approval of the Commissioner in Charge, a~~

~~bureau director~~The City Administrator may adopt interim additional rules of conduct without prior notice upon a finding that failure to act promptly will result in prejudice to the City's interest. Interim additional rules of conduct are final and effective upon posting at the City Property affected for a period not longer than 30 days. ~~The bureau director shall submit final rules shall be submitted to the Auditor for filing in the Portland Policy Documents repository within two business days after the rules become effective.~~

3.18.030 City Property Exclusions.

- A. The exclusion procedures in this Section ~~shall~~will be used for City Property subject to the Rules of Conduct in Section 3.18.020. If a person violates any Rule of Conduct at City Property described in Section 3.18.020 while in or upon City Property, any Person-in-Charge may eject and direct the person to leave the City Property for a period of 24 hours. In addition, ~~the director of the bureau assigned property management responsibility for the City Property where the violation occurred~~the City Administrator, or designee, may issue an exclusion for any period of time up to 1 year from City Property.
- B. Notwithstanding this Section, if public meetings of the City Council, or of City Boards and Commissions are held in a City Property, ejection and exclusion from the public meeting must comply with Section 3.02.060.
- C. In determining the appropriate length of exclusion under this Section, the person issuing the exclusion ~~shall~~will consider: the seriousness of the conduct that led to the exclusion; prior instances of violations of the Rules of Conduct at City Property by the person to be excluded; the availability of alternative means for the person to conduct business with City officials and offices; and any other facts or circumstances that the person issuing the exclusion deems relevant.
- D. The notice of exclusion ~~shall~~will be in writing, given to the person excluded and signed by the Person-in-Charge. It ~~shall~~will specify the dates and places of exclusion. It ~~shall~~will contain a warning of consequences for failure to comply with the notice of exclusion and information concerning the right to appeal the exclusion.
- E. A person receiving a notice of exclusion may appeal, in writing, to the Code Hearings Officer in accordance with the provisions of Title 22 of the Code to have the notice of exclusion rescinded. Notwithstanding the provisions of Title 22, the appeal to the Code Hearings Officer ~~shall~~must be filed within 5 days of issuance of the notice of exclusion, unless extended by the Code Hearings Officer for good cause shown. The sworn statement of the Person-in-Charge who issued the notice of exclusion ~~shall~~will be used as evidence on appeal, unless the appellant requests, in writing, the presence of the Person-in-Charge at the appeal hearing.
- F. A person receiving a notice of exclusion may request a limited modification from the Person-in-Charge issuing the exclusion for the purpose of attending a City

Council or other public meeting or conducting specific business with a City official or office located at a City Property identified in the exclusion notice. The request must be in writing and must identify good cause for the desired modification. The Person-in-Charge may deny the request if the business with the City official or office may be conducted through alternate means or deferred until the exclusion period ends, or may deny the request on any reasonable basis. If modification is allowed, the Person-in-Charge may impose reasonable conditions for the limited entry, and may include a requirement that the person arrange with the Person-in-Charge to be escorted into and out of the location where the meeting is to be held or the business is to be conducted.

Chapter 3.19 Community Police Oversight System

~~(Chapter added by Ordinance 191730, effective May 22, 2024.)~~

3.19.010 Community Police Oversight System.

The Community Police Oversight System (~~hereafter,~~ Oversight System) is ~~hereby~~ established.

3.19.020 Composition of Community Police Oversight System.

The Oversight System comprises the Community Board for Police Accountability (CBPA) and the Office of Community-based Police Accountability (OCPA).

3.19.030 Structure and Processes of the Community Police Oversight System.

The CBPA and OCPA structure and processes will be adopted in Title 35 of this Code.

Chapter 3.20 Bureau of Police

3.20.010 General Organization.

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

~~3.20.025 Appointment and Removal of the Chief of Police.~~

3.20.030 Authority of Chief of Police.

3.20.040 Duties of the Chief of Police.

3.20.050 Subordinate Officers.

3.20.070 Fees to Be Paid over to Treasurer.

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

3.20.110 Duties of Police Force.

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

~~3.20.130 Record of Daily Arrests.~~

3.20.140 Police Review Board.

3.20.150 Fingerprints, Photographs and Records of Identification.

3.20.160 Police Chief to Make Rules and Regulations.

3.20.170 Uniforms.

3.20.180 Appointment and Removal of Police Reserves.

3.20.190 Application, Oath of Office, Compensation and Equipment of Police Reserves.

3.20.200 Membership Card and Star of Police Reserves.

3.20.210 Police Reserves Exempt from Civil Service.

3.20.230 Medical Examinations.

3.20.240 Membership.

~~3.20.250 Badges.~~

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

~~3.20.270 Maintenance of Property Room.~~

~~3.20.280 Receipts for Property.~~

~~3.20.290 Records.~~

~~3.20.300 Prisoner's Property.~~

~~3.20.310 Evidence Property.~~

~~3.20.320 Miscellaneous Property and Storage Charges.~~

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

~~3.20.340 Storage Charge on Evidence Property.~~

~~3.20.350 Lien and Foreclosure.~~

3.20.~~25~~360 Fees for Report on Police Records.

3.20.~~26~~370 Accountability and Disposition of Fees.

~~3.20.380 Conveyances Seized for Drug Transport.~~

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

3.20.010 General Organization.

~~(Amended by Ordinances 136814, 138453 and 159113, effective October 23, 1986.)~~

The Bureau of Police, also known as "Portland Police Bureau," ~~shall~~will consist of the Chief of Police and such other ~~employees~~positions as the Council may provide. The Bureau ~~shall~~will ~~be~~is responsible for the enforcement of law and order. The Chief of Police ~~shall~~will ~~be~~is the Commanding Officer of the police force and ~~shall~~will ~~direct~~directs the police work of the City with the assistance of a Deputy Chief. The Chief of Police ~~shall~~will ~~be~~is directly responsible to the ~~Commissioner In Charge~~City Administrator or their designee for the proper functioning of the Bureau. For administrative purposes, the Bureau ~~shall~~will ~~be~~is made up of ~~the following~~ branches, each of which ~~shall~~will ~~be~~is commanded by ~~an Deputy Assistant Chief or Commander~~ and have personnel and such duties as may be assigned by the Chief of Police ~~or Deputy Chief~~, subject to the approval of the ~~Commissioner In Charge~~City Administrator or their designee.

~~A. Operations Branch;~~

~~B. Investigations Branch;~~

~~C. Operations Support Branch;~~

~~D. Administrative Support Branch.~~

~~The Deputy Chiefs serve under the command of the Chief.~~

3.20.020 Council to Organize and Make Rules and Regulations.

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

3.20.025 Appointment and Removal of the Chief of Police.

The Mayor appoints, subject to Council confirmation, and may remove the Chief of Police.

3.20.030 Authority of Chief of Police.

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

3.20.040 Duties of the Chief of Police.

~~(Amended by Ordinance 138453; effective July 27, 1974.)~~

The Chief of Police is a peace officer and must execute all processes directed to ~~the~~him by any magistrate of this State in criminal matters. ~~Th~~Hey may make arrests for breach of peace or commission of crime within the limits of the City with or without a warrant as peace officers do under the laws of this State. ~~Th~~Hey must exercise a vigilant control over the peace and quiet of the City. ~~Th~~Hey ~~shall~~will exercise such additional powers as may be conferred upon ~~them~~him by the ordinances of the City to enable ~~the~~him to carry out the objects and purposes of this Charter.

3.20.050 Subordinate Officers.

~~(Amended by Ordinances 136814, 138453 and 159113, effective October 23, 1986.)~~

The Deputy Chiefs, Assistant Chiefs, Commanders, and Captains and other ranks or grades of police within the Bureau of Police shall will possess like power and authority as the Chief of Police with respect to peace officer powers, except as herein provided. The Chief of Police shall will have control over the Deputy Chiefs, Assistant Chiefs, Commanders, and Captains and all other employees of the Bureau of Police when they are on duty, and shall will see that the City ordinances and rules, orders and regulations for the government of the police force are observed and enforced. He/she/They shall will have power to recommend for suspension to the Commissioner In Charge City Administrator or their designee any subordinate officer, member or employee for a violation of the same as prescribed by the Civil Service rules.

3.20.070 Fees to Be Paid over to Treasurer.

Any member of the Portland Police Bureau who receives a fee during the course of their employment with the City will turn the payment over to the City Treasurer. The Chief of Police or any other officer of the police force, when acting under or enforcing any law or statute other than a City ordinance, may collect and receive the same fees and compensation as are allowed to a constable for like services, and if collected he shall pay the same over to the City Treasurer, as provided in the case of fees which may be received by the municipal judge; but no fees shall be taxed against Multnomah County for services rendered by either Chief of Police or municipal judge.

3.20.080 Police Officersmen Receiving Gifts and Employing Attorneys -Penalty for Violation.

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

Upon complaint of any person alleging a violation of this Section the Council shall summon the officer accused before it and shall hold a summary hearing with power to

~~subpoena witnesses and to compel the production of all necessary evidence. If it finds that a violation of this Section has been committed by such officer he shall immediately be dismissed from the force and shall be ineligible for reappointment.~~

3.20.110 Duties of Police Force.

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

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

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

~~3.20.130 Record of Daily Arrests.~~

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

~~POLICE ARREST DOCKET AND MUNICIPAL COURT TRANSCRIPT~~

~~City of Portland, Oregon~~

~~DEPARTMENT OF FINANCE AND ADMINISTRATION~~

~~Bureau of Police~~

~~Name of~~

~~Defendant~~

~~Address of~~

~~Defendant~~

~~Arresting~~

~~Officer~~

~~Complainant~~

~~Charge~~

~~Where~~

~~Age~~

~~Nativity~~

~~Occupation~~

~~Bail~~

~~Plea~~

~~Fine~~

~~Days~~

~~Remarks~~

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

3.20.140 Police Review Board.

~~(Replaced by Ordinance 183657; Amended by Ordinances 183995, 186416, 189159, 189292, 189673, 190431, 190852 and 191379, effective July 19, 2023.)~~

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

B. Powers of the Board:

1. Review incidents and investigations. Except as provided in Code Section 3.20.140 J., the Board ~~shall~~will review incidents and investigated complaints of alleged

misconduct by non-probationary sworn officers ("officers") who are employed by the Portland Police Bureau ("Bureau") in the following cases:

a. The supervising Assistant Chief, the Director of the Office of Independent Police Review ("IPR") or the Captain of the Internal Affairs Division of the Bureau ("IAD") controverts the findings or proposed discipline of the Reporting Unit ("RU") manager pursuant to Code Section 3.21.120, unless the controverted findings are only as among the findings other than "sustained" (i.e. "not sustained," "exonerated," or "unfounded" findings).

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

c. The following incidents involving use of force:

(1) All officer involved shootings.

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

(3) All in custody deaths.

(4) Any use of force where the recommended finding is "sustained".

(5) Any other use of force case referred to the Board pursuant to Code Subsection 3.20.140 B.1.a. or Code Subsection 3.20.140 B.1.e.

d. All investigations regarding alleged violations of Human Resources Administrative Rules regarding complaints of discrimination resulting in a recommended sustained finding.

e. Discretionary cases referred by the Chief, Branch Chief, or the IPR Director.

f. In the event the involved member separates from employment prior to the date of the Board convening to hear the case, the Chief ~~shall~~will have the discretion to direct the Board hear the case as scheduled or to reconvene to hear the case at a later date in the event the involved member returns to City employment.

2. Probationary sworn officers. The Board ~~shall~~will review incidents and investigated complaints of alleged misconduct by Portland Police Bureau probationary officers when referred by the Chief, Branch Chief or the IPR Director. However, nothing in this section prohibits the Bureau from terminating the employment of a probationary officer without following the procedures of this section.

3. Recommendations to Chief. The Board ~~shall~~will make recommendations to the Chief regarding findings and discipline. The Board may make recommendations regarding the adequacy and completeness of an investigation. The Board may also make policy or training recommendations to the Chief. The Board ~~shall~~will make recommendations as to discipline based on corrective action guidelines. The guidelines ~~shall~~will be

developed by the Bureau in consultation with IPR or shall will be developed in collective bargaining.

C. Composition of Board

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

a. Voting members

(1) One community member from a pool of community volunteers recommended by the IPR Director (or designee) and confirmed by the City Council.

(a) Community members shall will be appointed for a term of no more than three years. Community members may serve two full terms plus the remainder of any unexpired vacancy they may be appointed to fill.

(b) All community members, including Citizen Review Committee members, must meet at least the following qualifications to participate on the Police Review Board, except that requirements (ii) and (iv) below may be delayed and community members may still participate on the Police Review Board during a State of Emergency declared by the President of the United States or the Governor of the State of Oregon or the Mayor, and requirements (ii) and (iv) shall will be met as soon as reasonably practicable under the circumstances of the State of Emergency:

(i) Pass a background check performed by the Bureau.

(ii) Participate in Bureau training to become familiar with police training and policies.

(iii) Sign a confidentiality agreement.

(iv) Participate in ride alongs to maintain sufficient knowledge of police patrol procedures.

(c) The Chief or the IPR Director (or designee) may recommend that City Council remove a community member, including a Citizen Review Committee member, from the pool for the following reasons:

(i) Failure to attend training

(ii) Failure to read case files

(iii) Objective demonstration of disrespectful or unprofessional conduct

(iv) Repeated and excessive unavailability for service when requested.

(v) Breach of confidentiality

(vi) Objective demonstration of bias for or against the police

(vii) Objective demonstration of conflict of interest

(2) One peer member of the same rank/classification as the involved officer. The peer member will be selected from a pool of Bureau representatives pre-approved by the Chief.

(3) The ~~Assistant Branch Chief~~ Assistant Chief (or designee) who is the supervisor of the involved officer.

(4) The Director of IPR (or designee).

(5) A Commander or Captain who is the supervisor of the involved officer (RU Manager).

b. Advisory members

(1) The Professional Standards Division Commander.

(2) Representative from Bureau of Human Resources.

(3) Representative from City Attorney's Office.

(4) The Internal Affairs Division Manager.

(5) Review Board Coordinator.

(6) Representative of ~~Commissioner in Charge~~ the City Administrator of the Bureau ("Commissioner in Charge").

(7) Representative of the Training Division.

(8) The Bureau Equity Manager (or designee).

c. Representatives/Individuals that may also be present during the presentation of the case include:

(1) Union representative for the Involved Member.

(2) Involved Member.

2. When the incident to be reviewed by the Board involves any use of force, including all officer involved shootings, all in-custody deaths, any physical injury caused by an officer that requires hospitalization, and any use of force case referred to the Board pursuant to Code Subsection 3.20.140 B.1.a. or Code Subsection 3.20.140 B.1.e., the Board ~~shall~~ will include one additional community member drawn on a rotating basis from the pool of current Citizen Review Committee members (as those members are described

in Code Section 3.21.080), and one additional peer member, for a total of seven voting members. A quorum of six voting members, including two community members, and the RU manager or designee, and four Advisory members is required to be present to make recommendations to the Chief.

3. Citizen Review Committee members serving on the Board shall will be subject to the same qualification and removal standards as other community members of the Board.

4. A Citizen Review Committee member who participates in a Board review of an incident cannot participate in a later appeal to the Committee of the same allegation(s).

5. Removal from participation on the Board shall will not affect Citizen Review Committee membership.

D. Access to information

1. All members of the Board shall will have access to necessary and relevant documents and an equal opportunity to participate in Board deliberations.

a. The Bureau and IPR shall will develop a Bureau Directive establishing confidentiality provisions and distribution timeline provisions of Board materials.

2. The RU manager or designee will provide a written recommendation of the findings, reasoning for the recommendation and disposition recommendation.

E. Board Facilitator

1. The Board shall will be facilitated by a person who is not a voting member of the Board. All PRB facilitators shall will be neutral and shall will not be influenced in their work as a facilitator. PRBs shall will occur as expeditiously as possible. To schedule PRBs expeditiously, the following order for obtaining a facilitator shall will be used when scheduling a PRB:

a. A person who is not employed by Portland Police Bureau, which may include someone who is not an employee of the City or someone who is from another City bureau or office; or

b. The Bureau Review Board Coordinator.

2. In selecting a facilitator who is not a City employee or is a City employee in a Bureau or Office that is not PPB, the Bureau and IPR shall will:

a. Develop a Bureau Directive establishing selection criteria and confidentiality provisions for the Facilitator(s); and

b. The voting members of the Board shall will schedule a meeting to recommend a pool of facilitators based on the Bureau Directive referenced above in Section 3.20.140

E.2.a., and shall will submit the recommendation for approval of the Commissioner-in-Charge City Administrator or their designee in accordance with City contract rules.

3. The Board Facilitator shall will write the statement of recommended findings and discipline and a summary of any training and/or investigation issues or concerns on behalf of the Board and submit the statement to the Chief within two weeks of the Board meeting date.

F. Board Recommendations

1. The Board shall will prepare a statement of its recommended findings and proposed discipline, if any, in every case for submission to the Chief. Such statement shall will include:

a. The Board's recommended findings, a brief explanation of the Board's rationale for its recommendation, and a record of the Board's vote.

b. In the event that the Board is not unanimous, the statement shall will contain a portion detailing the minority's recommendation.

2. The Board Facilitator shall will write the Board's statement of recommended findings, proposed discipline, and a summary of any policy training and/or investigation issues or concerns on behalf of the Board and submit the statement to the Chief.

a. IPR and the Bureau will develop a Bureau Directive setting forth the timeliness provisions of the statement.

G. Appeal of Board Recommendation.

1. As provided in Code Chapter 3.21, once the Board has prepared a statement of proposed findings relating to complaints of alleged misconduct of an officer during an encounter involving a community member, the complainant or involved officer may have the opportunity to appeal the recommended findings to the Citizen Review Committee.

2. Until the appeal period allowed by Code Chapter 3.21 has expired, and if an appeal is filed, until there is a final decision by the Citizen Review Committee, or Council City Administrator, or their designee, the Chief may not issue proposed discipline or make recommendations to the Commissioner-in-Charge City Administrator or their designee.

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

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

1. In the following cases, the Chief ~~shall~~will make a recommendation regarding the appropriate findings and level of discipline to the ~~Commissioner-in-Charge~~City Administrator or their designee:

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

b. The following incidents involving use of force:

(1) All officer involved shootings.

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

(3) All in custody deaths.

(4) Any use of force where the recommended finding is "sustained".

2. In the cases described in Subsection 1 above, the ~~Commissioner-in-Charge~~City Administrator or their designee ~~shall~~will make the final decision on findings and discipline, consistent with obligations under state and federal law, Portland City Charter and collective bargaining agreements.

3. In all other cases, unless the ~~Commissioner-in-Charge~~City Administrator or their designee exercises authority over the case, the Chief ~~shall~~will make the final decision on proposed findings and discipline, consistent with obligations under state and federal law, Portland City Charter and collective bargaining agreements.

4. In all cases where the Chief's and ~~Commissioner-in-Charge~~City Administrator or their designee's final corrective action is outside of the range recommended by the discipline guide, the Chief and ~~Police Commissioner~~City Administrator ~~shall~~will provide an explanation in the final discipline letter of the reason or reasons for imposing discipline outside of the recommended range. The Chief and ~~Police Commissioner~~City Administrator ~~shall~~will not be required to disclose information that is confidential or otherwise protected against disclosure. The cumulative report of discipline imposed outside of the recommended range ~~shall~~will be included in the PPB semi-annual report.

I. Public reports. As often as deemed necessary by the Board, but at least twice each calendar year, the Board ~~shall~~will publish public reports summarizing its statements of findings and a summary of any training and/or investigation issues or concerns. Except as provided otherwise in this Subsection, the reports ~~shall~~will keep confidential and not include involved officers' names, the names of witnesses, or the name of any complainants. The reports ~~shall~~will be written by the Board facilitator. The reports may not be released before a final decision, including discipline if any, is made by the Chief or ~~Commissioner-in-Charge~~City Administrator or their designee.

1. The public reports ~~shall~~will include the following for each case brought before the Board:

- a. Allegation(s) heard by the Board.
- b. A factual summary of the case.
- c. Summary of the Board's discussion.
- d. Record of the Board's vote, including recommended findings and discipline.
- e. Training and policy recommendations, including whether the recommendations were accepted by the Chief.

f. The final decision of the Chief or ~~Commissioner-in-Charge~~City Administrator or their designee.

2. The public reports ~~shall~~will include the names of involved officers and witnesses in cases of officer involved shootings or in custody deaths where the names of such persons have previously been publicly released in connection with the incident, unless confidentiality or non-disclosure is required by statute, a court order, an administrative order, or a collective bargaining agreement. Where the names have not been previously released, the report may include the names if the public interest requires disclosure or if nondisclosure would undermine the public's confidence.

3. The public reports ~~shall~~will include any stipulated agreements where a final decision has been reached.

J. Stipulated Findings and Discipline

1. The following categories of cases are not eligible for stipulated findings and recommended discipline: cases involving alleged use of excessive force; those categories of cases listed under Subsection 3.20.140 B.1.c.; cases involving alleged discrimination, disparate treatment or retaliation; reviews of officer involved shootings and in-custody deaths; and cases in which the Chief or the ~~Commissioner-in-Charge~~City Administrator or their designee does not agree to accept the member's proposed stipulation to findings and recommended discipline. These categories of cases, if they otherwise meet the criteria for review by the Board, ~~shall~~will go through Board review and recommendations.

2. The following categories of investigations are eligible for stipulated findings and recommended discipline without review by the Board when the involved member elects, with the concurrence of the Chief and the ~~Commissioner-in-Charge~~City Administrator or their designee, to accept the proposed findings and recommended discipline of the RU Manager following a full investigation of the alleged misconduct, issuance of investigative findings and concurrence with the findings by the Independent Police Review, the Professional Standards Division and the member's Branch Chief:

- a. First time offenses that fall under Category A through Category C of the Police Bureau Corrective Action Guide.

b. Second time offenses that fall under Category A of the Police Bureau Corrective Action Guide.

c. First time off-duty driving while under the influence offenses that fall under Category C of the Police Bureau Corrective Action Guide. To be eligible for stipulated discipline for an off-duty driving under the influence offense, there can be no other driving-related violations or charges and the member must comply with all court ordered conditions of a diversion or delayed prosecution.

d. In an investigation involving multiple sustained violations, the violation with the highest category from the Police Bureau Corrective Action Guide will be used to determine whether the case qualifies for stipulated discipline.

3.20.150 Fingerprints, Photographs and Records of Identification.

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

3.20.160 Police Chief to Make Rules and Regulations.

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

3.20.170 Uniforms.

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

A. The Chief of Police ~~shall~~will, subject to the approval of the ~~Commissioner In Charge~~City Administrator or their designee, prescribe specifications for police uniforms and establish rules, regulations and conditions of wearing thereof;

B. Upon report from the ~~Commissioner In Charge of the~~ Bureau of Police, ~~the Council the City Administrator or their designee~~ shall will designate which items of the uniform specified by the Chief of Police under subdivision (1) above shall will be furnished by the City to those employees required to wear the prescribed uniform in performance of their normal and usual police duties. Each new employee shall will be furnished a complete set of designated items of uniform. All other employees shall will be furnished designated items of uniform on the basis of replacement when needed as determined by the Chief of Police. Items furnished by the City shall will remain property of the City; and the Chief of Police shall will establish rules, regulations, and conditions for issuance and control thereof;

C. The Chief of Police shall will have the authority to designate duty assignments which require dress other than the prescribed uniform. For such designated duty, no items of uniform shall will be furnished, and those employees affected shall will receive an annual cash clothing allowance in lieu of items of uniform furnished by the City. Clothing allowances shall will be paid in accordance with Section 5.08.070 TBD.

3.20.180 Appointment and Removal of Police Reserves.

~~(Amended by Ordinance 143623, effective June 13, 1977.)~~

The Chief of Police is authorized, subject to the approval of the ~~Commissioner In Charge~~ City Administrator or their designee, to appoint new members to the police reserve from time to time as need therefore arises and to accept the resignations and discontinue appointments from time to time in accordance with ~~their his~~ judgment concerning the public welfare and safety subject to the approval of the ~~Commissioner In Charge~~ City Administrator or their designee; provided that the total number of such reserves at any time shall will not exceed 200.

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

3.20.190 Application, Oath of Office, Compensation and Equipment of Police Reserves.

~~(Amended by Ordinances 143623, 164223 and 189635, effective August 31, 2019.)~~

A. Each new sworn member of the police reserve shall will must complete an application provided by the Chief of Police, ~~giving such data concerning their age, weight, identification, residence, occupation, previous experience in police work, if any, citizenship, and other data as the Chief of Police may find necessary or convenient~~, including fingerprinting for better identification.

B. Sworn members of such police reserve shall will not be compensated unless specifically authorized and provided by the Council.

C. Upon appointment each sworn member of the police reserve ~~shall must will~~ take an oath of office, and such oath ~~shall will~~ be filed with the ~~City~~ Auditor.

D. Sworn members of the police reserve ~~shall will~~ serve at the pleasure of the Chief of Police and ~~shall must will~~ wear a uniform prescribed by the Chief of Police. They ~~shall must will~~ perform the duties and take training as directed by the Chief of Police. They ~~shall must will~~ observe the rules of ~~deportment and~~ conduct applicable to paid police officers. They ~~shall will~~, in the performance of their duties, be subject to the orders of commanding officers as designated by the Bureau of Police. They ~~shall must will~~, at all times, cooperate with paid police officers in the performance of their duties. While on any authorized assignment, they ~~shall will~~ be covered by the City's self-insurance, as authorized under the provisions of the Oregon State Workers' Compensation Act. The insurance ~~shall will~~ be in a form approved by the City Attorney. It is unlawful for any person whose appointment has been terminated to retain possession of or refuse to return any badge, identification or equipment issued to such person after demand for the return has been made by the ~~Mayor City Administrator or their designee~~, Chief of Police or anyone acting under and by the authority of the ~~Mayor City Administrator or their designee~~ or Chief of Police. Sworn members of the police reserve ~~shall will~~ be subject to police duty only when authorized by the Chief of Police or designee.

3.20.200 Membership Card and ~~Star~~ Badge of Police Reserves.

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

3.20.210 Police Reserves Exempt from Civil Service.

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

3.20.230 Medical Examinations.

~~(Amended by Ordinance 134934, effective July 20, 1972.)~~

Whenever the Chief of Police is in doubt concerning the physical or mental ability of a member of the Bureau of Police to perform full police duties, the Chief ~~shall will~~ require that member, upon written notice, to submit to a medical examination. The examination ~~shall will~~ be conducted without expense to the member. Unexcused failure to take an examination required by this Section, after reasonable notice, ~~shall will~~ be cause for the member's dismissal.

3.20.240 Membership.

~~(Amended by Ordinances 136679 and 189635, effective August 31, 2019.)~~

The Bureau of Police ~~shall~~will consists of a Chief of Police, full time paid members, and members of the police reserve.

~~3.20.250 Badges.~~

~~(Repealed by Ordinance 176585, effective July 5, 2002.)~~

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

~~(Repealed by Ordinance 176585, effective July 5, 2002.)~~

~~3.20.270 Maintenance of Property Room.~~

~~(Repealed by Ordinance 175944, effective September 26, 2001.)~~

~~3.20.280 Receipts for Property.~~

~~(Repealed by Ordinance 175944, effective September 26, 2001.)~~

~~3.20.290 Records.~~

~~(Repealed by Ordinance 175944, effective September 26, 2001.)~~

~~3.20.300 Prisoner's Property.~~

~~(Repealed by Ordinance 175944, effective September 26, 2001.)~~

~~3.20.310 Evidence Property.~~

~~(Repealed by Ordinance 175944, effective September 26, 2001.)~~

~~3.20.320 Miscellaneous Property and Storage Charges.~~

~~(Repealed by Ordinance 175944, effective September 26, 2001.)~~

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

~~(Repealed by Ordinance 175944, effective September 26, 2001.)~~

~~3.20.340 Storage Charge on Evidence Property.~~

~~(Repealed by Ordinance 175944, effective September 26, 2001.)~~

~~3.20.350 Lien and Foreclosure.~~

~~(Repealed by Ordinance 176585, effective July 5, 2002.)~~

3.20.25360 Fees for Report on Police Records.

~~(Amended by Ordinance 153909, effective November 22, 1982.)~~

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

3.20.26370 Accountability and Disposition of Fees.

~~(Amended Ordinance 153909, effective November 22, 1982.)~~

The Chief of the Bureau of Police shall will ensure that a full and complete record of all fees collected under that authority of this Chapter is kept and that all fees so collected are remitted to the City Treasurer as required by City Charter, Code, administrative rules or policies provided by Section 3.08.140. The City Treasurer shall will credit the amounts so received to the General Fund.

~~3.20.380 Conveyances Seized for Drug Transport.~~

~~(Repealed by Ordinance 176585, effective July 5, 2002.)~~

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

~~(Repealed by Ordinance 176585, effective July 5, 2002.)~~

Chapter 3.21 Office of Independent Police Review

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3.21.210 Subpoenas.

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~~(Chapter replaced by Ordinance 175652; amended by Ordinances 188331 and 190812, effective July 1, 2022.)~~

3.21.010 Purpose.

~~(Amended by Ordinances 188331 and 190812, effective July 1, 2022.)~~

The City ~~hereby~~ establishes an independent, impartial office, readily available to the public, empowered to act on complaints against Police Bureau personnel for alleged misconduct, and recommend appropriate changes of Police Bureau policies and procedures toward the goals of safeguarding the rights of persons and of promoting higher standards of competency, efficiency and justice in the provision of community policing services. This office ~~shall~~will be known as the Office of Independent Police Review.

3.21.020 Definitions.

~~(Amended by Ordinances 176317, 183657, 186416, 188331 and 190812, effective July 1, 2022.)~~

In this Chapter:

A. "Appellant" means either:

1. A person who has filed a complaint with the Office of Independent Police Review (IPR) and subsequently requested review by the Citizen Review Committee (Committee) of the investigation or

2. A member about whom a complaint has been filed with IPR and who has subsequently requested review by the Committee of the investigation.

B. "Bureau" means the ~~Bureau of~~Portland Police Bureau of the City ~~of Portland, Oregon~~.

C. "Chief" means the Chief of the Bureau.

D. "Citizen" or "community member" means any person who is not an employee of the Bureau.

~~E. "Commissioner In Charge" means the Commissioner In Charge of the Bureau.~~

F. "Committee" means the Citizen Review Committee, which is appointed by City Council ~~members~~ to assist IPR in the performance of its duties and responsibilities pursuant to this Chapter.

G. "Complaint" means a complaint about a member by a citizen, the Director, a member or other employee of the Bureau.

H. "Complainant" means any person who files a complaint against a member of the Portland Police Bureau.

I. "Director" means the director of the Office of Independent Police Review or the Director's designee.

J. "Finding" means a conclusion reached after investigation as to whether facts show a violation of Bureau policy.

K. "Early Warning System" means the Bureau's method of identifying officers exhibiting a pattern of behavior that signals potential problems for both the Bureau and public, as explained in General Order 345.00.

L. "IAD" means the Internal Affairs Division of the Bureau, whose responsibilities and procedures are described in Section 330.00 of the Manual of Rules and Procedures of the Bureau, as amended from time to time.

M. "IPR Investigator" means an investigator of the Office of Independent Police Review.

N. "IPR" means the Office of Independent Police Review.

O. "Member" means a sworn employee of the Bureau or a supervisor of sworn employees. An "involved" member is a member about whom a complaint has been submitted to IPR or the Bureau.

P. "Misconduct" means conduct by a member which conduct violates Bureau regulations or orders, or other standards of conduct required of City employees.

Q. "Request for Review" means a request by an appellant that the Committee review an IAD or IPR investigation of alleged member misconduct.

R. "RU (Responsibility Unit) Manager" means a commanding officer or manager of a Bureau division, unit or precinct.

S. "Supported by the Evidence." A finding regarding a complaint is supported by the evidence when a reasonable person could make the finding in light of the evidence, whether or not the reviewing body agrees with the finding.

T. "Police Review Board" means the board established by Code Section 3.20.140.

U. "Policy-related issue" means a topic pertaining to the Police Bureau's hiring and training practices, the Manual of Policies and Procedures, equipment, and general supervision and management practices, but not pertaining specifically to the propriety or impropriety of a particular officer's conduct.

V. "Supervisory Investigation" means a formal, non-disciplinary process where the involved member's supervisor is tasked with reviewing a complaint stating a member provided poor quality of service or committed a rule violation that if sustained would not result in corrective action greater than command counseling, as defined by the Bureau's discipline guide.

3.21.030 Office of Independent Police Review.

~~(Amended by Ordinances 188331 and 190812, effective July 1, 2022.)~~

There is established by the ~~City~~ Council the Office of Independent Police Review.

3.21.040 Director Selection and Removal.

~~(Amended by Ordinances 186416, 188842 and 190812, effective July 1, 2022.)~~

- A. The ~~City~~ Council shallwill select the Director of IPR, in accordance with the City's human resource policies and rules and any other applicable laws, by the following process:
1. Each Council~~or member~~ shallwill select a member of their staff to be part of the recruitment and selection process;
 2. The selected Council~~or~~ staff shallwill work with the Director of the Bureau of Human Resources (BHR) or designee to create a job posting that comports with the necessary and desired qualifications for an IPR Director;
 3. The Director of BHR or designee shallwill assess minimum qualifications and provide the eligibility list to the selected Council staff, who shallwill then determine at least three candidates best qualified to interview;
 4. The selected Council staff shallwill interview the candidates and the top scoring candidate will be moved forward;
 5. The top scoring candidate shallwill be presented to Council for consideration and vote; and

6. Council ~~shall~~will determine whether the presented candidate is well-suited for the position and may vote either to appoint the candidate as IPR Director or not to appoint the candidate, and if not appointed, then the selected Council staff ~~shall~~will present the next top scoring candidate to Council for consideration. The selection process ~~shall~~will continue as stated until Council votes to appoint a candidate as the IPR Director; this ~~shall~~will include reopening the recruitment process if none of the interviewed candidates are appointed by Council.
- B. The Director ~~shall~~will be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems of administration, and public policy, and ~~shall~~will have a working knowledge in criminal justice commensurate to the powers and duties of the office.
- C. The Director of IPR ~~shall~~will be removed from office only upon a finding of cause and by a vote of ~~nine or four~~ten or more members of Council.

3.21.050 Staff and Delegation.

~~(Amended by Ordinance 186416, effective February 7, 2014.)~~

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

3.21.060 Office Facilities and Administration.

~~(Amended by Ordinances 188842 and 190812, effective July 1, 2022.)~~

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

3.21.070 Powers and Duties of IPR.

~~(Amended by Ordinances 176317, 183657, 185076, 186416, 188331, 188547, 188842 and 190812, effective July 1, 2022.)~~

The Director's powers and duties are the following:

A. Intake. IPR shallwill receive complaints and select the appropriate manner to address the complaint.

B. Report on complaint activities. IPR shallwill track and report on the disposition of complaints to the public, IAD, the Chief, and the Council and monitor and report measures of activity and performance of IAD and IPR. IPR will also monitor and track trends relating to member history and complaint type as well as frequency, consistency and adequacy of discipline imposed. In performing these duties, IPR shallwill have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for IPR to perform its duties. IPR shallwill also have direct access to original database sources as permitted by state and federal law.

C. Access to Police data and data sources. IPR shallwill have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for IPR to perform its duties. IPR shallwill also have direct access to original database sources as permitted by state and federal law.

D. Initiate, monitor and conduct investigations. IPR is authorized to initiate, monitor and conduct administrative investigations. IPR is authorized to identify complaints or incidents involving members that are of community concern which merit additional involvement of the Director and to review evidence and IAD investigation efforts, participate in investigations with IAD investigators, or conduct the investigations in conjunction with or independent of the Bureau.

1. For investigations conducted by IPR, investigation reports will include recommended findings.

2. The Bureau shallwill notify the Director that it intends to conduct an administrative investigation into misconduct before initiating the investigation.

E. Compel review. In accordance with the procedures of Code Section 3.20.140, the Director may compel review by the Police Review Board of any RU Manager's or Commanding Officer's proposed findings and discipline resulting from a Bureau or IPR administrative investigation of a member. The Director may compel review by the Police Review Board on the basis of recommended discipline whether or not discipline was recommended as a result of the investigation.

F. Communicate with Complainants. IPR will be the primary contact with the complainant regarding the status and results of the complaint; to assist IAD in communicating with the Member.

G. Arrange hearings of appeals. IPR will explain the appeal options to complainants and schedule hearings before the Committee and Council.

H. Recommend policy changes. IPR will evaluate complaint and other information and investigation practices to make recommendations to the Chief to prevent future problems. Policy change recommendations ~~shall~~will be published for public review.

I. Outreach. IPR will widely distribute complaint forms in languages and formats accessible to citizens, educate them on the importance of reporting complaints, and hold public meetings to hear general concerns about police services.

J. Access to information. Notwithstanding any other provision of City law, IPR ~~shall~~will have access to and be authorized to examine and copy, without payment of a fee, any bureau information and records, including confidential and legally privileged information and records so long as privilege is not waived as to third parties, and police databases, subject to any applicable state or federal laws. The Director ~~shall~~will not disclose confidential or legally privileged information or records and ~~shall~~will be subject to the same penalties as the legal custodian of the information or records for any unlawful or unauthorized disclosure.

K. Adoption of rules. IPR ~~shall~~will adopt, promulgate, amend and rescind rules and procedures required for the discharge of the Director's duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and recommendations. However, the Director may not levy any fees for the submission or investigation of complaints.

L. Review of closed investigations. IPR ~~shall~~will hire a qualified person to review closed investigations pertaining to officer-involved shootings and deaths in custody on an ongoing basis. IPR ~~shall~~will issue reports on an annual basis identifying any policy-related issues or quality of investigation issues that could be improved. The Director and the Citizen Review Committee ~~shall~~will address any policy-related or quality of investigation issues that would warrant further review.

M. Additional public reports. The Director may issue public reports related to member misconduct trends and Bureau disciplinary practices.

N. Conduct investigative interviews of Bureau employees.

O. All Bureau employees ~~shall~~are required to be truthful, professional and courteous in all interactions with IPR. No member ~~shall~~will conceal, impede or interfere with the filing, investigation or adjudication of a complaint.

P. The Director may retain or employ independent legal counsel.

3.21.080 Citizen Review Committee.

~~(Amended by Ordinances 177688, 185076, 186416, 188331, 189078 and 190812, effective July 1, 2022.)~~

A. The Committee ~~shall~~will consist of eleven citizens. Five members ~~shall~~will constitute a quorum of the Committee. Decisions ~~shall~~will be made by a majority of Committee members present and constituting a quorum. However, adoption or amendment of rules of procedures or protocols requires an affirmative vote of six members. The Committee members ~~shall~~will be appointed as follows:

1. Committee staff ~~shall~~will solicit applications to fill vacancies in the Committee's membership from the Office of Community & Civic Life, the seven Neighborhood Coalition offices, Mayor and ~~commissioners'~~Councilors' offices, PPB advisory committees, and the general public.

2. The Director ~~shall~~will appoint a committee that ~~shall~~will recommend to the Director the appropriate number of nominees to fill impending vacancies. The selection committee ~~shall~~will consist of three CRC representatives, either past or not applying for reappointment, two members of the community, and the IPR Deputy Director. Three of the selection committee members, including one CRC representative and the IPR Deputy Director, ~~shall~~will serve as the interview panel.

3. Selection criteria ~~shall~~will include a record of community involvement, passing a criminal background check performed by an agency other than the Bureau, and absence of any real or perceived conflict of interest. The selection committee will nominate individuals who are neutral, unbiased, and capable of making objective decisions. The Mayor and ~~Commissioners~~Councilors may each submit an applicant meeting these qualifications.

4. The Director ~~shall~~will recommend nominees to Council for appointment.

5. In the event a majority of the Council fails to appoint a person nominated under the provisions of City Code Section 3.21.080 the Director ~~shall~~will initiate the process again within 30 days after the Council action.

6. In selecting Committee members, consideration ~~shall~~will be given to the current composition of the Committee and appointments should be made that will cause the group to best reflect the demographic make-up of the community.

B. The Committee members ~~shall~~will:

1. Participate in orientation and training activities that may include review of Bureau and IPR procedures, participation in Bureau training to become familiar with police training, policies and investigative practices, including Police Review Board process, participate in ride-alongs with officers, to maintain sufficient knowledge of police patrol procedures.

2. Each serve a term of three years, subject to reappointment by Council. Upon expiration of the term, a committee member ~~shall~~will serve until re-appointed or replaced.

3. Attend committee meetings or provide an explanation in advance for an absence.
4. Serve staggered terms to better ensure continuity.
5. Select a chair from among their members. Adopt such operating policies and procedures as necessary to carry out their duties.
6. Sign a confidentiality agreement.
7. Serve on the Police Review Board when the Board reviews use of force cases as defined in Chapter 3.20. Committee members ~~shall~~will serve on the Police Review Board on a rotating basis for no more than two terms of three years.

3.21.090 Powers and Duties of the Committee.

~~(Amended by Ordinances 177688 and 185076, effective December 14, 2011.)~~

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

1. Conduct meetings. To schedule and conduct at least four meetings per year for the purpose of exercising the authority delegated to it in this chapter. Quarterly meetings and hearings conducted pursuant to the Chapter ~~shall~~will be subject to the Oregon Public Meetings Law, ORS 192.610 through 192.710. The number of Committee members required for a quorum ~~shall~~will be five.
2. Gather community concerns. To participate in various community meetings to hear concerns about police services.
3. Recommend policy changes. To evaluate complaint, investigative practices, and other information to make policy recommendations to the Chief of Police, the Director, and the Council to prevent and rectify patterns of problems.
4. Advise on operations. To review methods for handling complaints and advise on criteria for dismissal, mediation, and investigation.
5. Hear appeals. To hold hearings of complainant or member appeals as defined in City Code Section 3.21.160; to recommend referral to a final hearing before Council; to publicly report its findings, conclusions and recommendations.
6. Outreach to public. To advise and assist the Director to disseminate information about IPR and Committee activities to organizations in the community; to present reports to Council.
7. Create other committees. To create special purpose subcommittees or committees including other citizens to address particular short-term issues and needs.

3.21.100 Council Role.

~~(Amended by Ordinance 190812, effective July 1, 2022.)~~

- A. Council ~~shall~~will review applications of nominees to the Committee and vote whether to approve each appointment as specified in Section 3.21.08.
- B. Council ~~shall~~will hear final appeals as specified in 3.21.160.
- C. Council ~~shall~~will select and remove the Director as specified in Section 3.21.040.

3.21.110 Intake.

~~(Amended by Ordinances 179162, 186416, 188331 and 188842, effective March 30, 2018.)~~

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

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

a. All complaints regardless of intake point will be forwarded to IPR or Internal Affairs and entered into the Administrative Investigation Management database.

b. All Bureau facilities will have complaint and commendation forms available in areas accessible to the public.

c. All Bureau issued business cards intended to be given to community members during calls for service will have IPR's phone number and email address printed on them.

2. All complaints of alleged member misconduct will be investigated as either:

a. Formal administrative investigations conducted by either Internal Affairs or IPR.

b. Supervisory investigations conducted by a supervisor assigned to the same responsibility unit as the involved member.

(1) Supervisory investigations will only be used for non-disciplinary complaints, such as those related to quality of service or minor rule violations.

- (2) All supervisory investigations will include a recommended disposition.
 - (3) All completed supervisory investigations must be reviewed by Internal Affairs and IPR.
 - (4) Completed supervisory investigations will not be subject to appeal.
3. The Director will be notified in a timely manner by either the Assistant Chief of Investigations, Captain of IAD, or a member of the ~~Police Commissioner's~~Mayor's staff upon their knowledge that a member has engaged in conduct that may be subject to criminal and/or administrative investigation.
4. IPR may request that the Bureau open an administrative deadly force investigation into any incident where IPR believes the physical force used by a member was such that it was readily capable of causing death or serious physical injury.
5. When members of the public make complaints that do not allege member misconduct but do raise issues of a broader systemic nature, IPR may conduct reviews of Bureau policies and practices.
- B. The Director ~~shall~~will develop procedures for handling complaints and appeals involving matters currently in litigation or where a notice of tort claim has been filed. The Director ~~shall~~will not initiate a case where a grievance or other appeal has been filed under a collective bargaining agreement or City personnel rules~~;~~; or with respect to employee or applicant discrimination complaints.
- C. The Director, when requested, ~~shall~~will protect the confidentiality of complainants, members or witnesses consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the Director to carry out their duties, or to comply with applicable collective bargaining agreements, or the disclosure of records is directed by the District Attorney. When considering a request for public records, the Director ~~shall~~will consult with appropriate Bureau personnel and obtain approval from the Bureau prior to disclosure of records under the Oregon Public Records Law.
- D. No member of the community or the Police Bureau ~~shall~~will face retaliation, intimidation, coercion, or any adverse action for reporting misconduct or cooperating with a misconduct investigation.

3.21.120 Handling Complaints.

~~(Amended by Ordinances 179162, 183657, 186416, 188331, 188547 and 190812, effective July 1, 2022.)~~

To ensure appropriateness and consistency in handling complaints the Director ~~shall~~will work with the Committee to establish procedures for taking action based upon the characteristics of the complaint.

A. Mediation. The complainant, the Member who is the subject of the complaint, and Bureau administration must all agree before mediation can be conducted. A complaint that undergoes mediation ~~shall~~will not be investigated. ~~A m~~Mediation may be suspended if, in the opinion of the mediator, there is no reasonable likelihood of reaching resolution.

B. Complaint Types:

1. Complaint Type I: IPR is the intake point for complaints from community members and others regarding the conduct of members during an encounter involving a community member. Type I complaints involve alleged misconduct of a member during an encounter involving a community member.

2. Complaint Type II: A complaint about alleged member misconduct that does not occur during an encounter involving a community member is a Type II complaint. Such a complaint may be initiated by another Bureau employee or supervisor, or may be based on information obtained from another law enforcement agency, an employee of governmental agency acting in an official capacity, or a community member. These complaints may be filed with the Bureau or with IPR.

3. Complaint Type III: A complaint may be initiated by the Director at the discretion of the Director ~~that who determines~~ an administrative investigation is warranted. IPR can initiate a complaint whether or not the alleged misconduct occurred during an encounter involving a community member and is not dependent on a community or Bureau member filing a complaint.

a. IPR will initiate and conduct administrative investigations in accordance with Human Resources Administrative Rules regarding process and investigation of complaints of discrimination.

b. If a criminal investigation has been initiated against the involved member, or if during ~~the course of~~ an IPR administrative investigation a basis for conducting a criminal investigation arises, IPR ~~shall~~will advise the City Attorney and/or District Attorney prior to initiating or continuing an administrative investigation. IPR ~~shall~~will take all steps necessary to meet constitutional requirements and comply with existing provisions of City labor agreements.

4. Complaint Type IV: When Bureau supervisors generate complaints about poor member performance or other work rule violations. RU managers are responsible for intake and investigation of allegations of Type IV cases.

5. For all complaint types, the Bureau ~~shall~~will notify IPR prior to the termination of any administrative investigation that has not been assigned for recommended findings.

C. Initial Handling and Investigation of Type I Complaints

Once IPR receives a Type I complaint regarding alleged misconduct of a member during an encounter involving a community member, IPR will:

Gather information about the complaint through an intake interview;

Assign an IPR/IAD Case Number;

Make a case handling decision; and

Send a letter to the complainant summarizing the complaint and the Director's case handling decision.

If IPR determines an investigation is appropriate, IPR will identify the complainant's allegations and either:

Recommend that the Bureau/IAD conduct an investigation.

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

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

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

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

IPR may conduct an independent investigation.

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

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

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

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

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

4. Administrative Closure. After an initial investigation, IPR may decline to take further action on a complaint. If there is an administrative closure, IPR will provide notification to the complainant. IPR will also notify the involved officer(s) and their commanding officer within 30 calendar days of the administrative closure. The Director may administratively close a complaint for the following reasons:

- a. Another remedy exists that would resolve the complainant's issue.
- b. The complainant delayed too long in filing the complaint to justify present examination;
- c. Even if all aspects of the complaint were true, no act of misconduct would have occurred;
- d. The complaint is trivial, frivolous or not made in good faith;
- e. Where there is clear and convincing evidence that the involved member did not engage in misconduct.
- f. The complainant withdraws the complaint or fails to complete necessary steps to continue with the complaint.
- g. IPR was unable to identify the involved member.
- h. Lack of jurisdiction.

D. Initial Handling and Investigation of Type II Complaints

1. If a Type II complaint is filed with IPR, IPR will gather information about the complaint and make a case handling decision. When appropriate, IPR will assign an IPR/IAD case number. Before disposing of a complaint of alleged misconduct or initiating an investigation, IPR ~~shall~~will notify the Bureau in writing how it intends to process the complaint and whether it intends to refer the case to the Bureau/IAD to conduct an investigation or conduct an independent investigation as set forth below. IPR will make an entry regarding the allegations in the Administrative Investigation Management (AIM) or other appropriate database which can be reviewed by the Director.

2. If a Type II complaint is filed within the Bureau, Bureau/IAD staff will create an intake worksheet and assign an IPR/IAD case number for use by IAD. Before disposing of a complaint of alleged misconduct or initiating an investigation, the Bureau/IAD ~~shall~~will notify the Director in writing how it intends to process each complaint and whether it intends to conduct an internal investigation. In addition, the Bureau/IAD will make an entry regarding the allegations in the Administrative Investigation Management (AIM) database or other appropriate database which can be reviewed by the Director.

3. Bureau/IAD Investigation. If the Type II complaint is filed with IPR, IPR ~~shall~~will gather information from the complainant and forward it to the Bureau/IAD. IPR ~~shall~~will monitor the on-going investigation. The Director may determine that a Bureau/IAD investigation

should also involve IPR personnel. When forwarding the complaint to the Bureau/IAD, the Director shall will notify the Bureau/Captain of IAD of the extent that IPR personnel must be included in the investigation. Bureau/IAD personnel shall will schedule interviews and other investigative activities to ensure that IPR personnel can attend and participate.

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

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

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

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

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

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

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

E. Initial Handling and Investigation of Type III Complaints

Upon opening a Type III IPR initiated complaint investigation. IPR staff will create an intake worksheet and assign an IPR/IAD case number. If a Type III case involves alleged member misconduct during an encounter involving a community member, the case will be handled following the same procedures as a Type I complaint. If a Type III

case involves alleged member misconduct that does not occur during an encounter involving a community member, the case will be handled following the same procedures as a Type II complaint.

F. Initial Handling and Investigation of Type IV Complaints

RU managers are responsible for intake and investigation of allegations of Type IV cases. The RU manager will provide the Director a summary of the complaint and a summary of any subsequent investigation of a sworn member. The Director may refer the matter to IAD for further investigation, conduct additional investigation, or controvert the RU manager's recommendations and compel review by the Police Review Board after receiving the completed investigation.

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

1. Adequacy of investigation. When an investigation of any type of complaint is conducted by IAD or other designated PPB division, after the investigation, including RU Manager's proposed finding and discipline, is complete, IAD will provide the Director with a copy of and provide unrestricted access to the entire investigation file. Upon review of the file, the Director or designee must determine whether or not the investigation is adequate, considering such factors as thoroughness, lack of bias, objectivity, and completeness. If the Director determines that the investigation is not adequate, the investigation shall will be returned to the IAD or other designated division within the Bureau explaining the determination and providing direction. Such direction shall will include, but not limited to, rewriting portions of the summary, gathering additional evidence, conducting additional interviews, or re-interviewing officers or civilians. The investigation can not be closed or sent to the RU manager without IPR's determination that the investigation is complete. Upon receipt of IPR's determination that the investigation is complete, IAD shall will send the investigation to the appropriate RU Manager.

2. Submission of recommended findings to RU Manager. The RU manager will review the investigation and recommended finding for any type of complaint when the investigation is conducted by IAD, other designated PPB division or IPR and submit the RU Manager's proposed finding and discipline to the Captain of IAD. The Captain of IAD will circulate the RU Manager's proposed finding to the Director and the Supervising Assistant Chief. After receipt of the RU Manager's proposed finding and discipline, the supervising Assistant Chief, the Director or the Captain of IAD may controvert the RU Manager's proposed finding and/or discipline. All controverts shall will be documented in a memo that clearly articulates that the reviewer wishes to controvert and provides an adequate explanation for the writer's basis for disagreeing with the recommended finding or discipline.

a. If the RU Manager determines that an investigation by IAD or IPR is not adequate, the RU Manager may return the investigation to the investigating entity for further investigation explaining the determination and providing direction for further investigation. Such direction shall will include, but not be limited to, investigating

additional allegations of misconduct, gathering additional evidence, conducting additional interviews, re-interviewing officers or civilians, or requesting factual errors within the investigative report be corrected.

b. If the RU Manager disagrees with the recommended finding by IA or IPR the RU Manager will document their disagreement, based on the evidentiary record, with the investigative entity in the RU's proposed finding and discipline

3. Police Review Board meeting. If the RU Manager's proposed findings and/or proposed discipline are controverted, the Bureau ~~shall~~will schedule a Police Review Board meeting on the complaint. As specified in Code Section 3.20.140, the Police Review Board ~~shall~~will also hold a meeting for review of a case if it involves an officer-involved shooting, physical injury caused by an officer that requires hospitalization, an in-custody death, a less lethal incident where the recommended finding is "out of policy" or if the investigation resulted in a proposed sustained finding and the proposed discipline is suspension without pay or greater.

4. Notification and Appeals of Type I and III complaints without Police Review Board meeting. In Type I cases, and Type III cases where the alleged misconduct occurred during an encounter involving a community member, if the RU Manager's proposed findings and discipline are not sent to the Police Review Board for a meeting, the Director ~~shall~~will send a letter to the complainant explaining the disposition of the complaint and add any appropriate comment regarding the reasoning behind the decision. Both the complainant and involved member will be notified of the investigative entity's recommended finding. IPR will notify the complainant that they have a right to request a review of the Bureau's proposed findings to the Committee and provide an appeal form. The Bureau will notify the involved member regarding the disposition of the complaint. The Bureau will notify the involved member of the right to request a review of the proposed findings to the Committee. The Bureau will be responsible for providing the member and union representative with the appeal form. A copy of the communications sent by IPR and IAD will be placed into the AIM database or other appropriate database for both IPR and IAD review.

5. Notification and Appeals of Type I and III complaints after Police Review Board hearing. In Type I cases and Type III cases where the alleged misconduct occurred during an encounter with a community member and the RU Manager's proposed findings and discipline are sent to the Police Review Board for a meeting, the Director ~~shall~~will send a letter to the complainant explaining the disposition of the complaint and add any appropriate comment regarding the reasoning behind the decision. Both the complainant and involved member will be notified of the investigative entity's recommended finding. IPR will notify the complainant that they have a right to request a review of the proposed findings to the Committee and provide an appeal form. The Bureau will notify the involved member regarding the proposed findings of the Police Review Board. The Bureau will notify the involved member of the right to request a review of the proposed findings to the Committee. The Bureau will be responsible for providing the member and union representative with the appeal form. A copy of the

communications sent by IPR and IAD will be placed into the AIM database or other appropriate database for both IPR and IAD review.

6. No appeal of Type II and certain Type III complaints. In Type II cases and Type III cases that involve alleged member misconduct that does not occur during an encounter involving a community member, the recommended findings may not be appealed to the Committee.

7. Nothing in this section prohibits the Bureau from terminating the employment of a probationary officer without following the procedures of this Section.

8. The ~~Police Commissioner~~Mayor ~~shall~~will be notified and provided with explanatory information in all cases where an administrative investigation exceeds 129 days, and the information posted on the City's website.

3.21.130 Communications

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

3.21.140 Filing of requests for review.

~~(Amended by Ordinances 183657 and 187136, effective June 19, 2015.)~~

A. Any complainant or member who is dissatisfied with an investigation of alleged member misconduct that occurred during an encounter with a community member may request a review.

B. The request for review must be filed within 14 calendar days of the complainant or member receiving IPR's notification regarding disposition of the case. The Director may adopt rules for permitting late filings. When good cause has been established, the Director may accept late filings. Good cause includes, but is not limited to:

1. Appellant has limited English language proficiency.

2. Appellant has physical, mental or educational issues that contributed to an untimely request for review.

C. A request for review must be filed in writing personally, by mail or email with the IPR Office, or through other arrangements approved by the Director.

D. The request for review ~~shall~~will include:

1. The name, address, and telephone number of the appellant;
 2. The approximate date the complaint was filed (if known);
 3. The substance of the complaint;
 4. The reason or reasons the appellant is dissatisfied with the investigation.
- E. The complainant or member may withdraw the request for review at any time.

3.21.150 Case File Review.

~~(Replaced by Ordinance 187136; Amended by Ordinance 188331, effective May 19, 2017.)~~

A. When the Director receives and accepts a timely request for review, a Case File Review and Appeal Hearing shall be scheduled before the Committee. The Director will notify the CRC Executive Committee upon receipt of a request of review. The Case File Review shall take place prior to the Appeal Hearing either on the same day or on an earlier date.

B. The Case File Review will be an opportunity for the Committee to assess the completeness and readiness of the investigation for an Appeal Hearing. Public comment will be allowed before the Committee has made a decision whether a case is ready for an Appeal Hearing. In the event that the Committee conducts a Case File Review and Appeal Hearing on the same day, public comment will be allowed before the Committee has made its recommendation to the Bureau.

C. During either the Case File Review or Appeal Hearing, the Committee may direct, by majority vote, additional investigation by either IAD and/or IPR.

1. Only Committee members who have read the case file are eligible to vote.
2. The Committee will have one opportunity to direct additional administrative investigation, all other requests will be at the discretion of either IAD or IPR.
3. The request for additional investigation may include multiple areas of inquiry.
4. All additional investigation will be conducted in a timely manner, with the Committee given regular updates.

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

3.21.160 Hearing Appeals.

~~(Amended by Ordinances 185076, 188331 and 188547, effective September 8, 2017.)~~

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

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

a. To recommend further investigation by IAD or IPR; or

b. If the finding is supported by the evidence. In a case where the majority of the voting members of the Committee affirms that the Bureau's proposed findings are supported by the evidence, the Director shall will close the complaint; or

c. If the finding is not supported by the evidence. In a case where a majority of the voting members of the Committee challenges one or more of the Bureau's proposed findings by determining that one or more of the findings is not supported by the evidence, and recommends a different finding, the Director shall will formally advise the Bureau in writing of the Committee recommendation.

(1) If the Bureau accepts the recommendation, the Bureau shall will formally advise the Director in writing, and the Director shall will close the case.

(2) If the Bureau does not accept the recommendation, the Bureau shall will formally advise the Director in writing, and the Director shall will schedule the case for a conference hearing.

(a) At the conference hearing, if the Committee, by a majority vote, is able to reach an agreement with the Bureau on the proposed findings, the Director shall will close the case.

(b) If, by majority vote, the Committee can not reach an agreement with the Bureau on the proposed findings, the Committee shall will vote whether to present the appeal to City Council.

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

2. In its hearing the Council shall will decide:

a. If the finding is supported by the evidence. The Director shall will inform the complainant, member, IAD and the Chief of the Council's decision and close the complaint; or

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

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

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

D. Witnesses.

1. The Committee and Council may require within its scope of review the investigators and Captain of IAD and the Director to appear and answer questions regarding the investigation and may also require the responsible Bureau Commander to answer questions regarding the basis and the rationale for a particular decision.

2. Other Witnesses. Other witnesses ~~shall~~will not be required to appear involuntarily before the Committee.

3. Council may utilize the full powers granted by Section 2-109 of the Charter, including the power to compel the attendance and testimony of witnesses, administer oaths and to compel the production of documents and other evidence. The power to compel the attendance and testimony of witnesses in accordance with City Code Section 3.21.160

D.3. ~~shall~~will not be delegated by the Council to the Committee.

3.21.170 Monitoring and Reporting

~~(Amended by Ordinances 181483 and 190812, effective July 1, 2022.)~~

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

3.21.180 Increasing Public Access

~~(Amended by Ordinance 186416, effective February 7, 2014.)~~

- A. The Director ~~shall~~will work with the Committee to make complaint forms available in formats and locations to reach as many community members as possible.
- B. The Director ~~shall~~will work with the Committee to develop programs to educate the public about IPR and the importance of reporting problems.
- C. The Director ~~shall~~will work with the Committee to develop programs to educate Bureau personnel on the complaint process, mediation, and IPR activities. Bureau personnel ~~shall~~will be informed that IPR is the primary means for citizens to file complaints.
- D. IPR, Committee and Bureau ~~shall~~will develop guidelines for situations when a commander or supervisor in a precinct is directly contacted by a complainant with a complaint. In general, they may intervene and attempt to resolve the complaint themselves, but they must also inform complainants that they can still file with IPR if they do not achieve satisfaction.

3.21.190 Response of Chief.

~~(Amended by Ordinances 186416 and 190812, effective July 1, 2022.)~~

- A. The Chief, after reviewing a report provided by IPR under City Code Section 3.21.170, ~~shall~~will respond promptly to IPR in writing, but in no event more than 60 days

after receipt of the report. The response ~~shall~~will indicate what, if any, policy or procedural changes are to be made within the IAD or the Bureau.

B. If the Chief fails to respond within 60 days after receipt of the Committee Report, the Director ~~shall~~will place the matter on the Council Calendar, for consideration by City Council, within 15 days thereafter.

3.21.200 Limitation on Power.

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

3.21.210 Subpoenas.

~~(Added by Ordinance 183657; Amended by Ordinance 186416, effective February 7, 2014.)~~

IPR ~~shall~~will have the authority to issue subpoenas for the purpose of compelling witness testimony or the production of documents, photographs, or any other evidence necessary for IPR to fully and thoroughly investigate a complaint or conduct a review. IPR personnel will not subpoena a sworn Bureau member employed by the Portland Police Bureau, but is authorized to direct Bureau members to cooperate with administrative investigations as described in Sections 3.21.120 and 3.21.220. Any person who fails to comply with a subpoena will be subject to contempt proceedings as prescribed by State law; provided that such persons ~~shall~~will not be required to answer any question or act in violation of rights under the constitutions of the State or of the United States.

3.21.220 Bureau Witnesses.

~~(Added by Ordinance 186416, effective February 7, 2014.)~~

A. A Bureau employee ~~shall~~are required to attend investigative interviews conducted by IPR, cooperate with and answer questions asked by IPR during an administrative investigation of a member conducted by IPR. If an employee refuses to attend an investigative interview after being notified to do so by IPR or refuses to answer a question or questions asked by IPR during an investigative interview, the Police Chief or

~~Police Commissioner~~the Mayor shall will direct the employee to attend the interview and answer the question or questions asked.

B. All IPR interviews of Bureau employees shall will be conducted in conformance with legal requirements and collective bargaining provisions.

C. Prior to being interviewed, a Bureau employee will be:

1. Notified of the time, date, and location of the interview.
2. Informed of the right to bring a union representative to the interview.
3. Read a statement, issued under the authority of the Police Chief or ~~Police Commissioner~~the Mayor, that the employee is directed to attend the interview, cooperate during the interview and answer all questions fully and truthfully and, if the employee fails to attend the interview, cooperate during the interview or answer any questions fully and truthfully, the employee will be subject to discipline or discharge
4. Provided with any other information or protections required by any applicable collective bargaining agreement.

D. A representative of the Police Bureau shall will attend IPR interviews of Bureau employees for the purpose of reading the statement referenced in Subsection C. and to provide any assistance required by IPR.

Chapter 3.22 Portland Fire & Rescue

~~City Code Chapter~~

~~(Amended by Ordinance 180917, effective May 26, 2007.)~~

3.22.010 General Organization.

~~(Amended by Ordinances 136677, 149110, 150993, 158149, 160883 and 182105, effective September 12, 2008.)~~

Portland Fire & Rescue ~~shall~~consists of the Chief Engineer (generally referred to as the ~~Fire Chief of the Bureau~~) and such other employees positions as the Council may provide. The mission of Portland Fire & Rescue ~~shall be is~~ to safely protect life, property, and the environment by providing excellence in emergency services, training and prevention. Portland Fire & Rescue ~~shall be comprised of the following divisions is~~responsible for:

- A. ~~The Emergency Operations Division, which shall be responsible for~~ the saving of life and property from fire or other disaster, emergency medical services,

hazardous materials incidents, conducting a fire loss control program, training and other miscellaneous public services;

- B. ~~The Fire Prevention Division, which shall be responsible for f~~Fire prevention inspections and Code enforcement (Title 31), fire and life safety plans review, fire and arson investigation, enforcement of harbor regulations (Title 19), and conducting an educational fire prevention program;
- C. ~~The Management Services Division, which shall be responsible for b~~Portland Fire and Rescue budget and finance, long range capital planning and program development, special projects, manual and automated management information systems, planning and administrative support services, and supplying logistical support, which ~~shall include s~~ facility and vehicle maintenance, operational supplies and services;
- D. ~~The Training and Safety Division, which shall be responsible for l~~initial training of all newly hired firefighters, on-going training to maintain and improve the skills of all personnel, safety and risk management programs, accident and injury investigation and analysis, researching and developing new technologies and practices, and promoting training and educational opportunities for career development of all Bureau personnel.

3.22.020 Organized by Council– Subject to Civil Service.

~~(Amended by Ordinance 160883, effective June 9, 1988.)~~

Portland Fire & Rescue ~~of the City shall be organized by the Council and the~~ members ~~will be~~ appointed as provided by the Charter, subject to the Civil Service rules of the Charter, and thereafter, subject to the restrictions contained in the Charter. ~~All the powers of the City connected with and incident to the appointment, discipline, and government of its Portland Fire & Rescue shall be vested in the City Administrator~~Commissioner In Charge of Portland Fire & Rescue.

3.22.030 Council Powers of the City Administrator.

~~(Amended by Ordinance 160883, effective June 9, 1988.)~~

All the powers of the City connected with and incident to the appointment, discipline, and administration of its Portland Fire & Rescue are vested in the City Administrator.

The ~~Council~~City Administrator ~~shall have~~has the power and ~~it is hereby made its~~ duty to ~~organize, govern, administer, and conduct a~~ Portland Fire & Rescue for effective service within the City, and to that end may authorize the appointment of a Chief ~~Engineer (Fire Chief of the Bureau)~~ and ~~as many other officers and employees as in their opinion are necessary.~~ The City Administrator ~~It shall have~~has the power to make, or power to delegate authority to the Chief of the Bureau Engineer (Fire Chief) ~~and as many other officers and employees as in their opinion are necessary~~ Commissioner In Charge of Portland Fire & Rescue to make, all necessary or convenient rules and regulations for

the organization and conduct of the Bureau, for receiving and hearing complaints against any members, and for the removal or suspension of any member of the Bureau. The Civil Service rules prescribed in the Charter ~~shall~~ apply to every officer and member of the Bureau and ~~shall~~ govern the actions of the City Administrator Council in its organization and government administration of the Bureau.

3.22.040 Care of Property ~~by Council~~.

~~(Amended by Ordinance 160883, effective June 9, 1988.)~~

The City Administrator Council ~~shall have~~has the custody and management of all the public property, including the fire alarm telegraph, pertaining to Portland Fire & Rescue. ~~—The Mayor~~ City Administrator ~~It shall have~~has power and authority, subject to the limitations and appropriations made and expenditures authorized by the Council, to enter into agreements for purchase and acquire all necessary apparatus, including fireboats, engines, hose, hose carriages, and all other personal property which the exigencies of an efficient Portland Fire & Rescue may require. The City Administrator ~~It shall have power and authority to~~may sell and dispose at public sale under the provisions of the Charter relating to sales of public property of any portion of said personal property whenever the same is not required, or when it may be considered by the City Administrator Council unfit for service in the Bureau. The proceeds of any such sale ~~shall~~must be paid by the purchaser to the Treasurer of the City, who ~~shall~~will issue a proper receipt therefor, and all such monies ~~shall~~will be credited to the General Fund of the City.

3.22.050 Duties of Fire Chief ~~Engineer~~.

~~(Amended by Ordinance 160883, effective June 9, 1988.)~~

The Chief ~~Engineer (Fire Chief)~~ of the Bureau ~~shall~~will diligently observe the condition of the apparatus and property and workings of the Bureau and make an annual report in writing to the ~~the City Administrator~~ Commissioner In Charge of Portland Fire & Rescue. The Fire Chief ~~Engineer (Fire Chief)~~ ~~shall~~may also make recommendations from time to time with regard to the needs of the Bureau ~~as he may deem proper~~.

3.22.060 Destroying Buildings to Check Fire.

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

3.22.070 Appointment of Temporary Employees.

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

3.22.080 Assignments of Disabled Members.

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

3.22.090 Rules and Regulations and Administrative Orders.

~~(Amended by Ordinance 160883, effective June 9, 1988.)~~

The rules and regulations of Portland Fire & Rescue shall will be promulgated by the Fire Chief-Engineer, subject to approval by the City AdministratorCommissioner In Charge of the Bureau, and the Fire Chief Engineer shall havehas authority to issue general and special orders which that areshall be administrative in nature and shall be are in addition to or supplemental to the rules and regulations as promulgated by the Chief Engineer and approved by the City AdministratorCommissioner In Charge. The rules and regulations and the general or special orders shall will govern the conduct of the members of Portland Fire & Rescue and shall will be designed for the efficient and effective functioning of the Bureau.

3.22.100 Uniforms.

~~(Amended by Ordinance 160883, effective June 9, 1988.)~~

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

- A. The Chief of the Bureau shall will, subject to the approval of the City Administrator Commissioner In Charge, prescribe specifications for fire uniforms and establish rules, regulations and conditions of wearing thereof.
- B. ~~Upon report of t~~Consistent with the budget, the City Administrator will
~~Commissioner In Charge of Portland Fire & Rescue, the Council shall~~ designate which items of the uniform specified by the Chief of the Bureau under subdivision A above shall will be furnished by the City to those employees required to wear the prescribed uniform in performance of their normal and usual fire duties. Each new employee shall will be furnished a complete set of designated items of uniform. All other employees shall will be furnished designated items of uniform on the basis of replacement when needed as determined by the Fire Chief of the Bureau. Items furnished by the City will shall remain property of the City. The Fire Chief of the Bureau shall will establish the rules, regulations and conditions for issuance and control thereof.;
- C. The Chief of the Bureau, subject to approval of the City Administrator, shall havehas the authority to designate duty assignments which require dress other than the prescribed uniform. For such designated duty, no items of uniform shall

will be furnished, and those employees affected shall will receive an annual cash clothing allowance in lieu of the items of uniform furnished by the City. Clothing allowances shall will be paid in accordance with Section 5.08.070[TBD].

3.22.110 Fire Prevention and Suppression Contracts.

~~(Amended by Ordinances 132356, 160840, and 160883, effective June 9, 1988.)~~

The ~~Mayor City Administrator Commissioner In Charge of Portland Fire & Rescue and the City Auditor hereby are is~~ authorized to enter into contracts under the provisions of the State Rural Fire Protection District Act. Contracts authorized by this Section are subject to the following conditions:

- A. The City shall will provide both fire prevention and fire suppression services and will not provide fire suppression services only.
- B. Payment for services by individuals and private organizations, having no tax levying authority under State law, shall must be in advance, excepting those contracts in excess of \$25,000, which may be paid on a quarterly basis in advance. The ~~Auditor Mayor will shall~~ execute such contracts only upon receipt of such payment;
- C. Contracts with political subdivisions of the State shall will be entered into only upon certification ~~to the Auditor~~ by the governing body of such political subdivision that there will be assessed upon the taxpayers of such political subdivision an amount not less than:
 1. The contract price.
 2. Unpaid balances, if any, owing the City on previous fire prevention and suppression contracts.
 3. An estimated amount sufficient to compensate for the delinquencies, based upon previous experience.

The ~~Auditor Mayor shall will~~ execute such contracts only upon receipt of such certification, unless specially authorized by ordinance. Payment upon such contracts shall will be due in equal semiannual installments on or before January 1 and June 1 of the year in which the contract is in effect;

D. As used in this Section:

1. "Effective year" means the fiscal year in which the contract is operative,
2. "Previous year" means the fiscal year first preceding the effective year.
3. "Property owner's assessed value" means the assessed value in the previous year of land, improvements and personal property of the individual,

organization or political subdivision contracting for City fire prevention and suppression, provided, however, that for political subdivisions, the ~~City Auditor~~~~Mayor~~ shall will decrease such assessed value to adjust for changes in boundaries which become effective during the previous year as the result of annexations to the City. If property or a portion thereof, which is included in the determination of property owner's assessed valuation, be outside Multnomah County, the assessed value shall will be adjusted so as to bear the same ratio to true cash value as the ratio of assessed value to true cash value in Multnomah County, as determined by the State Tax Commission.

4. "Assessed value of City property" means the assessed value, in the previous year, of land, improvements and personal property in the City. The assessed value of those portions of the City lying outside Multnomah County shall will be adjusted so as to bear the same ratio to true cash value as the ratio of assessed value to true cash value in Multnomah County, as determined by the State Tax Commission.

5. "Cost to City taxpayers" means the sum, to the nearest dollar, of:

- a. Portland Fire & Rescue General Fund budget of the previous year,
- b. A portion of the budget for Fire and Police Disability and Retirement Fund based upon the ratio of the number of firemen to the number of policemen employed on January 1 of the previous year, and;
- c. Ten percent of the total of a. and b. to allow for payroll taxes and other expenditures outside the Portland Fire & Rescue General Fund budget;

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

(Cost To City Taxpayers)

Multiplied by

(Property Owner's Assessed Value)

Divided by

(Assessed Value of City Property)

F. Each application for a fire suppression and/or fire prevention contract under this Section, and for renewal of a previous contract under this Section, shall will be forwarded to the Chief of ~~Portland Fire & Rescue~~the Bureau. The Chief will shall attach thereto ~~his~~the Chief's report upon the accessibility, water supply, distance from the City fire equipment, and other conditions pertaining to the area to be protected. The Chief will shall then submit the application to the City

~~Administrator Commissioner In Charge of Portland Fire & Rescue~~ for approval or disapproval before a contract is entered into.

3.22.120 Renewal Notices.

~~(Amended by Ordinance 132356, effective April 1, 1971.)~~

On or near February 15 of each year the ~~Auditor~~ City Administrator ~~shall will~~ mail to each individual, organization and political subdivision then under contract with the City for fire suppression and/or fire prevention, letter stating the dollar amount the City will charge for renewal of the contract in the next succeeding fiscal year. This amount will be computed by the formula in Section 3.22.110. The letter, if directed to a political subdivision contracting under Section 3.22.110 B, will also state the amount owed the City and then in arrears, if any, under preceding contracts or the contract then in effect. Such letter ~~shall will~~ not operate as a waiver or estoppel of the right of the City to refuse renewal of any contract under Section 3.22.110 B because of delinquencies or other good cause.

3.22.130 Contract Form to be Approved by City Attorney.

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

3.22.140 Mutual Assistance Agreements.

~~(Amended by Ordinance 160883, effective June 9, 1988.)~~

The Mayor and the ~~City Administrator Commissioner In Charge of Portland Fire & Rescue~~ may enter in agreements with agencies of the federal government and with political subdivisions of a state in which each party agrees to provide mutual assistance, in the form of ~~men~~ personnel and equipment, in combating large fires within the boundaries of the other party or parties to such agreements.

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

~~(Amended by Ordinance 160883, effective June 9, 1988.)~~

Upon the approval of the Chief of ~~Portland Fire & Rescue~~ the Bureau and of the ~~City Administrator Commissioner In Charge~~, the fire boats of Portland Fire & Rescue may be used for the purpose of pumping out water from boats and barges which ply the Willamette or Columbia rivers.

3.22.160 Fees for Pumping Water from Imperiled Vessels.

~~(Amended by Ordinance 160883, effective June 9, 1988.)~~

The fees for the emergency pumping services permitted by Section 3.22.150 ~~shall be~~ \$200 per hour. The owner, owner's agent, or master of the vessel requesting the nonfire emergency pumping service ~~shall must~~ be advised that the pumping fee ~~shall be~~ \$200 per hour before a fire boat is dispatched to the emergency location. The fire boat officer, on arrival, ~~shall must~~ obtain written agreement from the owner, owner's agent or master of the vessel in peril to pay the City \$200 per hour for salvage pumping before beginning operations. When the service of the fire boat is completed, the Chief of

Portland Fire & Rescue ~~shall will~~ certify to the ~~City Administrator Commissioner In Charge~~ the exact time employed by the fire boat, and the ~~City Administrator Commissioner will shall~~ thereupon make a final charge for such service and require payment of such charge by the applicant. In the event salvage efforts fail, and if so recommended by the Chief ~~of Portland Fire & Rescue~~ ~~Ethe Bureau Engineer (Fire Chief)~~, the ~~City Administrator Commissioner In Charge of Portland Fire & Rescue~~ may reduce or omit the pumping fee.

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

~~(Amended by Ordinance 160883, effective June 9, 1988.)~~

All awards earned by members of Portland Fire & Rescue participating in Rose Festival activities ~~shall will~~ go to the personnel and improvements of the fire engine quarters where such companies are housed.

3.22.180 Forested and Wildland Interface Areas Fire Protection Plan.

A. General Provisions.

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

5. Participation voluntary. Voluntary participation by nongovernmental agencies, having emergency capabilities in areas of disaster relief, is authorized and encouraged; provided, however, that each voluntary agency ~~shall~~must submit an operational program to this plan as hereinafter provided.

B. Plan Coordination.

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

PROGRAM I: Bureau of Parks

PROGRAM II: Portland Fire & Rescue

PROGRAM III: Bureau of Police

PROGRAM IV: Portland Water Bureau

PROGRAM V: General Services

PROGRAM VIII: Maintenance Operations

PROGRAM IX: Reserved for Nongovernmental

PROGRAM X: Reserved for Nongovernmental

C. Command Responsibility for Fire Fighting.

1. In all forested and rural areas lying within the City, and in all areas for which the City has a contract to furnish fire protection, overall command of fire fighting operations ~~shall~~will be the responsibility of the Chief of ~~Portland Fire & Rescue~~the Bureau.
2. Operating units will in all cases be under the direct control of their own commanders or foremen, superintendents, etc. However, such units will

function in conformity with the tactical fire-fighting plan established by the sector commander to whom they are assigned.

D. Activation and Response.

1. All participants and resources listed in the plan will be activated in accordance with the plan at the request of the Incident Commander.
2. All participants in the plan will send liaison personnel to the field headquarters, support command headquarters, and the Emergency Operations Center as requested by the Incident Commander.

E. Personnel alerting.

1. The Bureau of Emergency Communications will initiate the alerting of participating services as outlined in the plan. The person contacted is then to complete the calls required by ~~their~~his/her bureau, office or agency.
2. For the purpose of alerting as required in 1 above, the head of each participating service ~~will~~shall establish and maintain master-call lists or a key-alerting system.

Chapter 3.24 Portland Water Bureau

~~(Chapter replaced by Ordinance 182053, effective August 15, 2008.)~~

3.24.010 Organization.

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

3.24.020 Administration.

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

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

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

3.24.030 Customer Service Group.

The Customer Service Group manages billing and collection services for the Portland Water Bureau including but not limited to, establishment of new accounts, close out of terminated accounts, meter reading, meter inspection services, leak repair notification, bill generation, payment application, remittance processing, approval of adjustments and refunds, delinquent account notification, collection of delinquent accounts by all legal means, termination of service for delinquency, resumption of water service and such other duties as requested by the ~~Administrator~~ City Administrator ~~Director~~. The Group will also be responsible for responding to ratepayer inquiries, hearing appeals of the matters for which the Group is responsible and managing financial assistance programs.

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

3.24.040 Engineering Services Group.

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

3.24.050 Finance and Support Services Group.

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

3.24.060 Maintenance and Construction Group.

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

3.24.070 Operations Group.

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

3.24.080 Resources Protection and Planning Group.

The Resource Protection and Planning Group is responsible for Watershed and Columbia South Shore Well Field (CSSWF) management and coordination with federal, state and local partners to protect the quality of both of Portland's drinking water sources. This responsibility includes addressing legislative and regulatory issues and performing integrated resource planning, comprehensive planning on major issues, supply and demand analysis, and coordination of the Regional Water Providers Consortium. This Bureau work group is also responsible for the Bureau's business, residential and multifamily water conservation programs and Bureau sustainability efforts. ▮

Chapter 3.26 Portland Parks & Recreation Bureau

3.26.010 Purpose.

The Portland Parks & Recreation Bureau (PP&R) operates, manages, maintains, and improves the parks, recreation areas, playgrounds, natural areas, forests, wetlands, and

human-built or natural facilities of all kinds that collectively serve as the City's park system.

3.26.020 Organization.

PP&R is administered by the City Administrator. PP&R consists of a Director and other employees as the City Administrator may provide. The City Administrator manages, supervises, and coordinates the functions of PP&R. The City Administrator may structure PP&R to carry out its duties and responsibilities.

3.26.030 Duties and Responsibilities.

A. The City Administrator has the duty and responsibility to:

1. Administer Titles 11 and 20 of Portland City Code.
2. Perform assigned internal bureau administrative services and supervise those personnel assigned to the bureau, pursuant to the direction of the City Administrator.
3. Oversee operations, maintenance, management, planning, design services, and capital improvement at real property assigned to PP&R, including but not limited to:
 - a. Property management services;
 - b. Facilities maintenance services, including but not limited to maintenance and repair of buildings, improvements, and their related equipment; and
 - c. Professional and technical services, including but not limited to architectural design, engineering, facilities planning, and project management of capital projects.
4. Implement park facility management and maintenance standards.
5. Maintain records on park system services, activities, programs, and improvements.
6. Implement park system management plans, master plans, and development plans and proposals.
7. Establish, provide, and conduct park system services, activities, and programming, including but not limited to: sports and recreation; aquatics; golf programming and golf courses; recreational, natural area, and environmental education; arts and cultural special events; Portland International Raceway.
8. Undertake land stewardship of the park system, including but not limited to the management of horticultural services, turf and trail care, routine care of park system landscape, pest control, specialty gardens, and community gardens.
9. Manage citywide natural area and tree management, including but not limited to:

a. Performing urban forestry operations associated with Title 11, including permitting, tree inspections and removal, and pruning trees in the park system and the public right-of-way.

b. Providing outreach and planting programs to enhance the urban tree canopy.

c. Enhancing and restoring natural areas, forests, and wetlands to provide habitat to wildlife, insects, and plants.

d. Coordinating with internal and external stakeholders and program partners.

Chapter 3.27 Portland Parks and Recreation Board

3.27.010 Purpose.

~~3.27.020 Definitions.~~

3.27.0230 Members and Terms.

3.27.0340 Organization and Meetings.

3.27.0450 Duties.

3.27.0560 Staff Liaison and Support.

~~(Chapter added by Ordinance 176002, effective October 10, 2001.)~~

3.27.010 Purpose.

~~(Amended by Ordinance 190226, effective January 8, 2021.)~~

The Portland Parks and Recreation Bureau (PP&R) Board is established for the following purposes: to ensure that the vision and recommendations of the Parks 2020 Vision, other PP&R strategic initiatives policies adopted by the City, Council including its core and the values of diversity, equity and inclusion are at the forefront of discussions about park and recreation issues and trends over time, in all areas of the City; to advocate for parks and recreation on a city and regional basis to ensure that parks, natural areas, open spaces and recreation facilities are advanced in city and regional planning and design; to provide continuity when transitions occur in the leadership of Portland Parks and Recreation PP&R and on across the City Council; and to provide a forum for public discussion and decision-making about park issues, bringing a city-wide and long-term perspective to community and community neighborhood-based issues.

3.27.020 Definitions.

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

As used in this Chapter, unless the context requires otherwise, the following definitions apply:

A. "Board" means the Portland Parks and Recreation Board.

B. "Board Year" means July 1 through June 30.

C. "Bureau" or "Portland Parks and Recreation" means the Bureau of Parks and Recreation of the City of Portland, or whatever agency is given responsibility for the City's system of parks and recreation.

D. "Commissioner" means the Commissioner in Charge of Portland Parks and Recreation.

E. "Council" means the City Council of the City of Portland, Oregon.

F. "Director" means the Director of Portland Parks and Recreation, or the Bureau head, however designated.

G. "Parks 2020 Vision" means the Parks 2020 Vision adopted on October 10, 2001 and any amendments, extensions or replacements adopted by the Council.

3.27.0230 Members and Terms.

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

A. ~~Voting Members.~~ The ~~Portland Parks~~ Board ~~shall~~ will consist of a minimum of ~~nine~~ 9 and a maximum of 15 voting members appointed by the Mayor ~~in consultation with the Commissioner~~ and confirmed by the Council. Members ~~shall~~ will serve without compensation for terms of ~~3~~ three years. No member ~~shall~~ will be appointed to more than two full consecutive terms, not to exceed 6 years of total consecutive service; provided that a member appointed initially to a term of less than ~~3~~ three years may thereafter be re-appointed to two consecutive ~~3~~ three-year terms and completion of an unexpired term ~~shall~~ will not apply to the ~~6~~ six-year cumulative limitation. A member otherwise may be re-appointed after at least ~~three~~ 3 years following completion of the member's two consecutive terms. Members are expected to bring a system-wide perspective to the Board and to reflect the demographic and geographic diversity of the City.

B. ~~Ex Officio Members.~~ The Board may, in its discretion, appoint up to four ~~ex officio members~~ as, in the judgment of the Board, will assist it in carrying out its functions. Such ~~ex officio~~ members shall be appointed in a manner to be determined by the Board. ~~Ex officio members shall not have the right to vote. Ex officio members shall not be subject to the term limitations of Subsection A. of this Section, but the Board may, by rule or regulation, provide for terms and other conditions of service of ex officio members as it may deem necessary or desirable.~~

B. Technical Advisors. The Mayor may invite up to four technical advisors to assist the Board in carrying out its functions as may be convenient and useful to the work assigned to the Board. These advisors are not Board members, do not count towards quorum, and will not have the right to vote. The terms and other conditions of service for these advisors will be described by the Mayor in the initial invitation, or through the Board Chair in collaboration with the Director.

3.27.0340 Organization and Meetings.

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

The Board ~~shall~~will adopt ~~such~~ rules of procedure as it deems necessary to the conduct of its duties, subject to approval by the Mayor and legal review by the City Attorney. Every 2 years the Board ~~shall~~will elect a Chair and ~~such~~ other officers ~~as the Board may from time to time establish pursuant to the bylaws of the Board~~. The Board ~~shall~~will meet at least quarterly and may meet more often. The ~~Board~~ Chair, in consultation with the ~~Commissioner~~Mayor and the Director, ~~shall~~will set the agenda for Board meetings.

3.27.0450 Duties.

The Board ~~shall~~will:

A. Advise the Council, the ~~Commissioner~~Mayor, the City Administrator and the Director on policy matters pertaining to ~~PP&R~~Portland Parks and Recreation, using the Parks 2020 Vision as its guide.

B. Advise ~~the Council~~, the ~~Commissioner and the Director~~ Mayor on the preparation and contents of the annual ~~Portland Parks and Recreation~~PP&R budget request.

C. Review plans and policies, either existing or being developed, by other ~~City~~ bureaus, boards and commissions or by other government agencies, that affect parks and recreation in the City ~~of Portland~~, and advocate for the advancement of ~~parks, natural areas, open spaces and recreation facilities~~the City's park system and park system services in City and regional planning and design.

D. Engage in ~~such~~ public outreach, education and advocacy, to the extent permitted by law, as the ~~Mayor, the City Administrator, or the Director~~Board determines necessary or advisable in order to provide a forum for public discussion and decision-making about park and recreation issues.

E. Prepare and submit to ~~the Council~~the Mayor, the City Administrator and the Director an annual report which ~~will~~shall summarize the Board's activities during the City's fiscal year and which ~~shall~~will identify the major issues facing ~~Portland Parks and Recreation~~PP&R and the Board's recommendations for addressing them in the coming fiscal year.

3.27.0560 Staff Liaison and Support.

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

Chapter 3.30 Portland Permitting & Development

~~(Chapter replaced by Ordinance 191736, effective July 1, 2024.)~~

3.30.005 Organization.

Portland Permitting & Development (PP&D) is supervised by its Director. ~~Before January 1, 2025, the Director will report to the Commissioner of Community and Economic Development. On and after January 1, 2025, t~~The Director will reports to the City Administrator.

3.30.010 Duties and Responsibilities.

Notwithstanding any other provision of this Code, Portland Permitting & Development is responsible for the following, under the direction and subject to the approval of the City Administrator and, where applicable, the Building Official:

- A. The operation and management of the City's Development Services Center and all personnel assigned directly or through inter-agency agreements;
- B. The examination and checking of applications, plans, specifications, and supporting documentation required preliminary to the approval of land use actions and permits for development;
- C. The issuance of approvals and permits required for the construction, installation, repair, or alteration of land, buildings, or equipment;
- D. The inspection of sites, buildings, or other structures and equipment for compliance with plans and specifications and with applicable Code provisions and laws;
- E. The administration and enforcement of the following:
 - 1. Title 4, Original Art Murals;
 - 2. Title 10, Erosion and Sediment Control Regulations;
 - 3. Portions of Title 11, Trees, as further specified in that title;
 - 4. The following portions of Title 14, Public Order and Police: Chapter 14B.100, Liquor License Recommendations; Chapter 14B.120, Time, Place and Manner Regulations of Establishments that Sell and Serve Alcoholic Beverages; and Chapter 14B.130, Marijuana Regulatory License Procedure and Requirements;
 - 5. Title 18, Noise Control;
 - 6. Title 24, Building Regulations;

7. Title 25, Plumbing Regulations;
8. Title 26, Electrical Regulations;
9. Title 27, Heating and Ventilating Regulations;
10. Title 28, Floating Structures;
11. Title 29, Property Maintenance Regulations;
12. Title 32, Signs and Related Regulations;
13. Title 33, Planning and Zoning, except as specified in that title;
14. The special jurisdiction provisions in Section 3.30.050;
15. State of Oregon regulations regarding manufactured dwellings; and
16. Other regulations enacted by the State of Oregon and adopted by the Council and assigned to Portland Permitting & Development.

F. The coordination of related permits with other bureaus and offices as required to manage the Development Services Center; and

G. Other duties as assigned.

3.30.020 Public Infrastructure Permitting.

In addition to the duties and functions set forth in Section 3.30.010, Portland Permitting & Development maintains a special relationship with the Bureaus of Environmental Services, Parks, Transportation, and the Portland Water Bureau related to public infrastructure permitting in conjunction with or in support of development on real property.

Some permits may be required for development proposals within public rights-of-way and public easements as described in this Code. Other City bureaus or non-City agencies may require additional permits. [Under the direction and subject to the approval of the City Administrator](#), Portland Permitting & Development, in consultation with the City Engineer and the Chief Engineers of the Bureau of Environmental Services and the Portland Water Bureau, will establish and maintain a list of the specific types of permits that it issues.

A. In addition to the duties and functions set forth in Section 3.30.010, Portland Permitting & Development is responsible for applying those portions of Titles 17 and 21 that are implicated when a land use review, building permit, or other permit is required for work on real property. Portland Permitting & Development is also responsible for applying the relevant portions of Titles 11, 17, and 21 when a property owner wishes or is required to obtain a permit for work in the adjacent public right-of-way or a public easement. To carry out these functions, Portland Permitting & Development, [under the direction and subject to the approval of the City Administrator and, where applicable, the Building Official](#), is responsible for:

1. The examination and checking of applications, plans, specifications, and supporting documentation required preliminary to the approval of land use actions and permits for development;
2. Collaborating with other bureaus and offices as necessary to facilitate the review and approval of public infrastructure permit applications in conjunction with or in support of development on real property;
3. Reviewing applications to connect, build, construct, install, repair, modify, or remove public sewer, stormwater, or transportation infrastructure in the public right-of-way or public easements;
4. Issuing required public works permits;
5. Reviewing application requests for the Portland Water Bureau to connect, build, construct, install, repair, modify, or remove water infrastructure;
6. Reviewing development-related applications, issuing permits, and conducting associated inspections to protect elements of the public sewer and drainage system not located in the public right-of-way;
7. Reviewing development-related applications for Street Trees, as that term is defined in Title 11, and conducting associated inspections;
8. Reviewing and providing conditions of approval for land use reviews; and
9. Responding to customer inquiries and early assistance requests.

~~B. Administrative Rulemaking. The Director may adopt and administer administrative rules appropriate to perform the duties set forth in this Section. However, no such administrative rule adopted under this Section may serve to establish, alter, or waive City engineering standards, specifications, or thresholds for when such standards or specifications apply. The Director will adopt administrative rules according to the procedures in Section 3.30.045, with the notice required by that Section also provided to the Bureaus of Environmental Services, Parks, Transportation, and the Portland Water Bureau at least 30 calendar days before adoption.~~

3.30.030 Development Review Advisory Committee.

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

1. Providing leadership and expertise on issues affecting development;

2. Providing feedback to bureaus, review bodies, the City Administrator, the Mayor, and the Council on the impact of potential regulations and administrative rules on the development review process, taking into consideration the full range of City goals and objectives;
3. Providing recommendations for regulatory, Code, and administrative rule changes affecting the development review process;
4. Monitoring the application and enforcement of regulations for their effectiveness in achieving the City's development goals;
5. Recommending customer service, permitting, process, and compliance improvements to bureaus, review bodies, the City Administrator, the Mayor, and the Council;
6. Serving as an advisory board to development review directors and bureaus on development review processes and procedures; and
7. Providing input to ensure budgets of development review agencies are adequate to meet service goals and desired system outcomes.

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

1. Frequent development review customers
2. Citywide neighborhood interests
3. Design professionals
4. Environmental conservation and green building
5. Historic preservation
6. Home builders
7. Home remodelers
8. Land use planning professions
9. Large developers
10. Large construction contractors

11. Low-income housing developers
12. Major facilities landowners
13. Minority construction contractors and development professionals
14. Neighborhood coalition land use committees
15. Small businesses
16. Planning Commission, as designated by the Planning Commission Chair (this person serves as an ex officio member of the Committee)
17. Public works permit customers

C. Appointments and terms. Committee members will be appointed for three-year terms. If a position is vacant during a term, it will be filled for the unexpired term. Members of the Committee will not serve more than two complete three-year terms.

D. Meetings, officers, and subcommittees.

1. The Committee will meet at least five times yearly and as otherwise necessary to conduct its business. Meetings will be conducted in accordance with adopted rules of procedure. Seven members constitute a quorum. A quorum is necessary to make decisions that represent the position of the Committee and to conduct any other Committee duties. The election of officers will take place at the first meeting of each calendar year.
2. The officers of the Committee consist of a chairperson and a vice chairperson. The chairperson is responsible for conducting the meetings of the Committee. The vice chairperson will act as chair when the chairperson is not available.
3. The Committee may divide its members into subcommittees that are authorized to act on behalf of the Committee for an assigned purpose. Subcommittee actions require the affirmative vote of at least three members of the subcommittee.

E. Attendance. Members of the Committee are expected to attend each meeting of the Committee. The Mayor may replace any member who accrues unexcused absences from three or more consecutive meetings or more than 50 percent of the meetings in any year with a new appointment as set forth in this Section.

F. Compensation. Committee members will serve without compensation.

3.30.040 Administration and Enforcement.

In order to carry out the duties as set forth in [Section 3.30.010 in this Chapter](#), the [City Administrator](#)~~Director~~ may:

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

B. Establish enforcement fees or penalties for non-compliance.

C. Establish enforcement priorities based on the following:

1. The number of budgeted enforcement personnel;
2. Public safety and welfare factors;
3. Priorities established by the Council before January 1, 2025; and
4. Priorities established by the City Administrator on or after January 1, 2025.

D. Compel compliance by:

1. Instituting an action before the Code Hearings Officer in the manner provided for by Title 22 of this Code.
2. Causing an appropriate action to be instituted in a court of competent jurisdiction.
3. Issuing a Code violation citation directly to the contractor or person responsible for carrying out the work. Any person receiving a citation for violating Code provisions administered by Portland Permitting & Development will be subject to a fine of up to \$1,000 for each citation issued.
4. Taking other lawful action.
5. Revoking a Type B home occupation permit for failure to comply with the regulations of City Code Chapter 33.203 or revoking a Type A accessory short-term rental permit for failure to comply with the regulations of City Code Chapter 33.207 by using the following procedures:
 - a. If the ~~City Administrator~~ ~~Director~~ determines that cause for revocation of a permit exists, the ~~City Administrator~~ ~~will~~ ~~Director~~ ~~must~~ provide written notice thereof to the permittee. The notice ~~must~~ will contain a brief description of the facts supporting the revocation, the date the revocation becomes final and a notice of the permittee's right to appeal the revocation.
 - b. The notice ~~must~~ will be mailed by certified mail, return receipt requested, and regular mail to the permittee.
 - c. The revocation will become final and effective thirteen calendar days after the notice is mailed unless an appeal is filed.
 - d. Any permittee whose permit has been revoked may appeal the revocation to the Code Hearings Officer pursuant to the provisions of Code Chapter 22.10. The filing of an appeal will stay the effective date of the revocation until the appeal is determined in a final decision by the Code Hearings Officer.

E. Impose fees or penalties for non-compliance, issue citations, provide notification, and allow for appeals by:

1. Initiating the notification procedures provided in Section 29.60.050.

2. Imposing monthly enforcement fees or penalties for each property that meets the following conditions:

- a. The property is the subject of a notice of violation by Portland Permitting & Development;
- b. A response period of 30 calendar days has passed since the effective date of the initial notice of violation; and
- c. The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.

3. Doubling the penalties if the violations are not corrected within three months from the initial notice of violation.

4. Imposing an additional penalty as set forth in the Enforcement Fee and Penalty Schedule against any property for which a Code enforcement proceeding is initiated before the Code Hearings Officer pursuant to the provisions of Title 22 of this Code.

5. All required fees or penalties are listed in the Enforcement Fee and Penalty Schedule adopted by Council. Fees or penalties may be updated annually or on an as-needed basis. The approved Enforcement Fee and Penalty Schedule is available at the Development Services Center and on Portland Permitting & Development's web site.

6. When a property meets the conditions for charging any fee or penalty for noncompliance, the [revenue service and program of the City Administrator](#) will file a statement ~~with the Revenue Division~~ identifying the property, the amount of the fee or penalty, and the date upon which the charge should be assessed. The [revenue service and program of the City Administrator](#) ~~will~~ [Revenue Division must](#) notify the property owner of the amount of the assessed fees and penalties and add a 10 percent ~~Revenue Division~~ charge. The [revenue service and program of the City Administrator](#) ~~Revenue Division~~ will record the total amount as a lien in the Docket of City Liens. The [revenue service and program of the City Administrator](#) ~~Revenue Division~~ will maintain the lien record until the lien and all associated interest and costs are paid in full and the ~~Director~~ [City Administrator](#) certifies that all violations listed in the original or subsequent notice of violation have been corrected.

7. Providing for administrative procedures as set forth in Subsections 29.70.010 C. through E.

8. Providing for administrative review and the opportunity for appeal to the Code Hearings Officer as set forth in Section 29.80.020.

9. Allowing exceptions as provided in Section 29.60.100.

3.30.045 Administrative Rulemaking ~~Procedures~~.

~~A.~~ The [Director](#) [City Administrator](#) may adopt and administer administrative rules appropriate to perform the duties set forth in [Section 3.30.010](#) ~~this Chapter~~. ~~Such administrative rules will be adopted according to the procedures in this Section.~~

~~B. Permanent rules.~~

~~1. Prior to the adoption of a permanent rule, the Director will:~~

- ~~a. Publish a notice in a newspaper of general circulation in Portland. The notice must be published not less than thirty calendar days before adoption of the administrative rule. The notice will include the place and time of a proposed public hearing, a brief description of the subjects covered by the proposed rule, the final date for acceptance of written comments, the location to submit comments, and the location where copies of the full set of the proposed rules may be obtained. The Director is only required to hold the public hearing if a written request is filed seeking a hearing.~~
- ~~b. During the public review process, the Director will hear testimony and receive written comments regarding the proposed rules.~~
- ~~c. The Director will review the testimony and comments and may either adopt the proposed rule, modify it, or reject it.~~
- ~~d. If the Director makes a substantial modification to the proposed rule, the Director may provide additional time for public review and comment prior to adoption.~~

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

~~C. Interim rules.~~

- ~~1. The Director may adopt an interim rule without prior notice upon a finding that a failure to act promptly will harm the public interest.~~
- ~~2. Interim rules will be effective for a period of not longer than 180 calendar days.~~
- ~~3. Portland Permitting & Development will post on its website public notice of the interim rule not more than 30 calendar days after adoption. Such notice will identify the location at which copies of the full set of the interim rules may be obtained.~~

~~D. All final and interim rules will be submitted to the Auditor for filing in the Portland Policy Document repository, described in Code Chapter 1.07.~~

3.30.050 Special Jurisdiction.

~~Portland Permitting & Development~~The City Administrator may enforce Section 14A.20.070; Subsections 16.10.200 L., 16.20.120 H., and 16.20.130 I.; and Sections 16.20.160, 16.20.170, 16.70.450, and 16.70.800. ~~Portland Permitting & Development~~The City Administrator may issue parking citations and order the towing and storage and/or removal of such vehicles and objects. In addition, violations of Section 16.20.160 are also subject to ~~Portland Permitting & Development~~ enforcement remedies as described in Subsection 3.30.040 C.

3.30.060 Nuisance Abatement Contracts.

~~When authorized elsewhere in this Code to abate a nuisance, Portland Permitting & Development~~The City Administrator may either abate a nuisance with City personnel as may be provided by this Code or, when necessary, ~~the Director may~~ contract with eligible contractors for the performance of nuisance abatement services pursuant to the procedures established in Sections 3.30.040 through 3.30.060.

3.30.070 Inspections on Property.

A. Definitions. The following definitions apply to this Section unless the context requires otherwise:

1. "Building regulations" means any City Code title listed in Section 3.30.010 and any other safety or health statute, ordinance, regulation, rule, standard, or order the ~~Director~~City is authorized to enforce.
2. "Property" means real property and all improvements or structures on that property, from property line to property line.

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

C. Grounds for issuance of inspection warrants; affidavit.

1. **Affidavit.** An inspection warrant 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 inspection or investigation, the building or property to be inspected or investigated, and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit must contain either a statement that entry has been sought and refused or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.
2. **Cause.** Cause is deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to any building or upon any property, or there is cause to believe that a condition of nonconformity with any building regulations exists with respect to the designated property, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with any building regulations.

D. Procedure for issuance of inspection warrant.

1. Examination. Before issuing an inspection warrant, the judge may examine the applicant and any other witness under oath and must be satisfied of the existence of grounds for granting such application.

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

E. Execution of inspection warrants.

1. Occupied property. Except as provided in Subsection 2. of this Section, in executing an inspection warrant, the person authorized to execute the warrant must, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.

2. Unoccupied property. In executing an inspection warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in Subsection 1. of this Section, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the search warrant must be conspicuously posted on the property.

3. Police assistance. In issuing an inspection warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and assist the building inspector or representative of the bureau inspecting the property in any way necessary to complete the inspection.

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

3.30.080 Stop Work Orders.

A. When necessary to compel compliance with this Title or to address any violations of provisions administered by Portland Permitting & Development, the [City Administrator or Building Official](#)~~Director~~ may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If the [City Administrator or Building Official](#)~~Director~~ issues a stop work order, activity subject to the order may not resume until such time as the [City Administrator or Building Official](#)~~Director~~ gives specific approval in writing. The stop work order will be in writing and will include:

1. The date the order is issued;
2. The permit or registration number, where applicable;
3. The site address, legal description, or project location that is subject to the stop work order;
4. A description of violations observed; and
5. The conditions under which the work may resume.

B. The stop work order will be posted by the City Administrator or Building Official Director at a conspicuous location at the site. In addition, a copy of the order will either be personally delivered or sent to the property owner and any person authorized to act on the owner's behalf, if identified, by regular first-class mail.

C. It is unlawful for any person to remove, obscure, mutilate, or otherwise damage a stop work order.

D. A stop work order is effective upon posting.

E. When an emergency condition exists, the City Administrator or Building Official Director may issue a stop work order orally. The City Administrator or Building Official Director will then issue a written notice as provided under Subsection A., above, within one working day.

F. The City Administrator or Building Official Director may issue a stop work order for work commenced without a required permit.

G. The City Administrator Director may impose a penalty as set forth in the adopted Enforcement Fee and Penalty Schedule when a stop work order is issued. The stop work order penalty may be assessed for each day the violation or condition giving rise to the order continues.

H. Review of stop work order by the City Administrator or Building Official Director;

1. If a property owner or any person authorized to act on the owner's behalf has received a stop work order as described in this Section and the recipient believes the order has been issued in error, the recipient may request that the order be reviewed by the City Administrator or Building Official Director. The recipient must submit a written request to the Director within 15 calendar days of the date of the order. The written request must be submitted together with all evidence that supports the request. Work subject to a stop work order may not be resumed until approved according to Subsection A. of this Section. Following review, the City Administrator or Building Official Director will issue a written determination. The City Administrator's or Building Official Director's determination will be served on the property owner and any person authorized to act on the owner's behalf by regular mail.

2. A property owner or any person authorized to act on the owner's behalf may appeal the City Administrator or Building Official Director's written determination to the Code Hearings Officer in accordance with City Code Chapter 22.10.

3. Nothing in this Chapter limits the authority of the City Administrator ~~Director~~ to initiate a code enforcement proceeding under Title 22.

Chapter 3.28 Bureau of Health

City Code Chapter

3.28.010 Transfer of Functions.

3.28.020 Executive and Clerical Division.

3.28.030 Communicable Disease Control Division.

3.28.040 Tuberculosis Control Division.

3.28.050 Venereal Disease Control Division.

3.28.060 Laboratory Division.

3.28.070 School Hygiene Division.

3.28.080 Emergency Hospital Division.

3.28.090 Pure Food Sanitation Division.

3.28.100 Division of Mental Health.

3.28.110 Division of Home Health Care.

3.28.010 Transfer of Functions.

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

3.28.020 Executive and Clerical Division.

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

3.28.030 Communicable Disease Control Division.

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

3.28.040 Tuberculosis Control Division.

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

3.28.050 Venereal Disease Control Division.

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

3.28.060 Laboratory Division.

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

3.28.070 School Hygiene Division.

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

3.28.080 Emergency Hospital Division.

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

3.28.090 Pure Food Sanitation Division.

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

A. The Milk Inspection Section, which shall provide inspection of the milk supply, including the source, transportation, handling, and preparation for distribution;

B. The Meat Inspection Section, which shall provide inspection of meat in an effort to keep unwholesome meats and meat products from the market;

~~C. The Sanitation Inspection Section, which shall provide general sanitation inspection services, such as restaurant inspection, food inspection, market inspection, food handler's examinations, inspections of hospitals and certain manufacturing plants, and the inspection of housing conditions, including ventilation, lighting and sanitation fixtures.~~

3.28.100 Division of Mental Health.

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

3.28.110 Division of Home Health Care.

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

Chapter 3.33 Bureau of Planning and Sustainability

~~(Chapter added by Ordinance 182671, effective May 15, 2009.)~~

3.33.010 Purpose.

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

3.33.020 Organization.

~~The City Administrator Bureau is administered by the Commissioner in charge and led by the Director of Planning and Sustainability leads the Bureau. The Director of the Bureau determines the organizational structure of the Bureau shall be determined by the Director of the Bureau after consultation with the City Administrator Commissioner in charge. The City Administrator administers the City's solid waste and recycling rules and programs.~~

3.33.030 Functions.

~~(Amended by Ordinances 184046, 188177 and 191150, effective March 1, 2023.)~~

The Bureau of Planning and Sustainability is responsible for planning, implementing,

and managing complex programs and projects related to sustainability, urban design, land use, and long range planning.

The Bureau of Planning and Sustainability:

- A. Works with the [City Administrator, Mayor, City Council](#), Planning Commission, and the community to define shared values and develop a cohesive vision for the future of Portland;
- B. Maintains, modifies, and updates a Comprehensive Plan to guide the development and redevelopment of [Portlandthe eCity](#);
- C. Ensures that City policies, implementation tools, and zoning designations are consistent with the Comprehensive Plan, the Metro Functional Plan, Statewide Planning Goals, and other requirements. Implementation tools include [Portland City Code](#) Title 33, Planning and Zoning, portions of other [City](#) Titles, and a range of programs and policies;
- D. Maintains, modifies, and updates [Portland City Code](#) Title 33, Planning and Zoning, and the City Zoning Map;
- E. Develops, modifies and updates [eCity](#) sustainability principles, climate protection strategies, and green building and other sustainability policies and programs including sustainable government, renewable energy, energy efficiency, sustainable industries, and sustainable food systems; and evaluates the implementation and effectiveness of these policies and programs;
- F. Develops, modifies and updates economic, environmental, housing, historic preservation, and community development policies and programs; updates demographic data; advocates for and advances quality sustainable urban design; works to ensure natural resource enhancement; ~~and~~ supports thriving neighborhoods and business communities; and evaluates the implementation and effectiveness of these policies and programs;
- G. Convenes meetings of the Planning and Development Directors to coordinate planning and development activities of the City ~~of Portland~~;
- H. Provides City input into and coordination with regional and statewide planning and development activities;
- I. ~~Administers the City's solid waste and recycling rules and programs;~~
- ~~J.~~ Provides support for:
 - 1. The activities of the Planning Commission;
 - 2. The legislative activities of the Portland Historic Landmarks

Commission and the Portland Design Commission.

3. The activities of the Community Involvement Committee.

4. The activities of the Sustainability and Climate Commission.

J. Coordinates Citywide broadband planning, communications policy advocacy, technology grants, and related consumer protection activities.

K. Supervises and coordinates all franchising processes engaged in by the City, monitors the performance of all franchisees for franchise compliance, and performs all other necessary work relating to franchises in the City.

L. Implements Title 12, Utility Operators, of this Code ~~(Utility Operators).~~

M. Promotes the orderly development of City-owned and City-partnered broadband and cable communication systems, provides staff support needed by the Mt. Hood Cable Regulatory Commission, and performs all other necessary work related to broadband planning, communications policy advocacy, related technology grants, and cable communications in the City.

N. Oversees franchise and utility audits and revenues in coordination with the Auditor's Office, the City Administrator, and other City agencies and bureaus.

O. Has jurisdiction over all franchisees and utility licensees, all public and private utilities and other entities seeking similar rights to use City rights-of-way, and all cable communications and broadband policy matters affecting Portland.

JP. Carries out other tasks and functions as required by the City Administrator, Mayor, or City Council ~~or Commissioner in Charge~~.

Chapter 3.36 Portland Housing Bureau

~~(Chapter added by Ordinance 186028, effective May 15, 2013.)~~

3.36.010 Purpose.

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

3.36.020 Organization.

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

3.36.030 Functions.

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

A. The Portland Housing Bureau:

1. Works with the [City Administrator](#), [City Council](#), [Mayor](#), other bureaus, and the community to develop a vision for housing in the ~~City of Portland~~;
2. Convenes government, community and stakeholders to coordinate planning for addressing homelessness, housing, and related activities;
3. Develops, modifies, evaluates and updates City policy in accordance with planning priorities;
4. Develops, modifies and updates community programs related to housing;
5. Distributes funds in accordance with planning, policy and program priorities to advance the City's interests in housing;
6. Monitors the City's investment in Portland's affordable housing infrastructure for compliance with funding goals and the proactive management of the assets;
7. Monitors programs funded through the Bureau for compliance with funding goals;
8. Identifies the resources required to support the City's housing policies, programs, and priorities;
9. Provides support for the Advisory Committee on Housing (Chapter 3.38);
10. Carries out other tasks and functions as required by the Mayor, City Administrator, or Council.

Chapter 3.38 Portland Advisory Committee on Housing (PACH)

3.38.010 Created.

The Portland Advisory Committee on Housing (PACH) is established and designated as the primary public forum for discussion of housing and housing-related policies and programs, guiding City and Portland Housing Bureau (PHB)

goals around housing production, preservation, and protections.

3.38.020 Mission.

The mission of the PACH is to elevate the importance of housing stabilization in Portland communities by providing comprehensive advice to the Mayor, City Administrator, Director of PHB, and Council.

3.38.030 Duties.

The PACH will:

- A.** Advise on housing policy and planning priorities, including those faced by Portland community members, landlords, tenants, and homeowners.
- B.** Periodically review and recommend updates to PHB's strategic plan, Consolidated Plan, Fair Housing Plan, and adherence to the Affirmatively Furthering Fair Housing mandate.
- C.** Reinforce PHB's commitment to racial equity in all facets of work.
- D.** Provide the forum for community members to comment on needs and priorities.

3.38.040 Membership.

- A.** Membership on the PACH should balance professional and lived experience and reflect the socio-economic, gender, racial, ethnic, cultural, and geographic diversity of the City. Individual committee member backgrounds may include some or many of these experiences and identities.
- B.** Professional expertise includes (1) housing policy and mixed-income housing models, (2) affordable housing development, preservation, and financing, and (3) landlord tenant law, fair housing, and property management.
- C.** Lived experience includes housing instability, eviction, neighborhood displacement, fair housing violations, identification with a community population that has been historically disenfranchised, marginalized, or excluded from public engagement, processes, and benefits.
- D.** The PACH will consist of at least 10 and no more than 15 members.
- E.** Two seats will be reserved for youth representation, defined for individuals aged 16 – 24.
- F.** PACH members will be appointed by the Mayor and confirmed by Council.

- G. Members will be expected to transcend their individual interests and affiliations to focus on meeting the city's housing needs.
- H. Members will serve without compensation. However, the City may authorize reimbursement of the reasonable expenses of the members for carrying out the work of the PACH.
- I. The PACH will adopt rules of procedure and bylaws for the governance of its proceedings, which must be approved as to form by the City Attorney.

3.38.050 Staffing.

The Director of PHB will provide staff for the ongoing functions of the PACH.

PHB will provide notice of PACH meetings to liaison staff representing the other key implementing and policy agencies in the local housing delivery system.

3.38.060 Consolidated Plan Consortium.

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

3.38.070 Cooperation.

All [eCity](#) boards, bureaus, and agencies of any kind will cooperate with the PACH and provide information requested by the PACH. [Chapter 3.46 Bureau of Insect Control](#)

3.46.010 County to Perform Duties.

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

Chapter 3.54 Occupational Health & Safety Loss Control and Prevention

3.54.010 Definitions.

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

3.54.030 Bureau Responsibility and Authority.

~~(Chapter replaced by Ordinance 190172, effective November 20, 2020.)~~

3.54.010 Definitions.

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

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

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

The ~~OMF~~ City Administrator, through its Risk Management dDivision, ~~shall~~will have the following responsibility and authority in the area of City loss control and prevention:

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

3.54.030 Bureau Responsibility and Authority.

Each City bBureau ~~shall~~will have the following responsibility and authority:

- A. Develop a written Loss Prevention Plan using Risk Management's template; ~~u~~utilize Risk Management's consulting services to assist with plan development, as necessary; ~~and~~ and ~~p~~provide the proposed plan to Risk Management for review;
- B. Implement the Bbureau's Loss Prevention Plan and track Bbureau loss prevention effort accomplishments using Risk Management's reporting form; and

- C. Annually review the Bbureau's Loss Prevention Plan. Consult with Risk Management to update the Plan in accordance with the Loss Prevention Policy.

~~Chapter 3.62 Boxing Commission~~

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

~~(Amended by Ordinance 173369, effective May 12, 1999.)~~

~~The Council finds that by the provisions of ORS Chapter 463 certain functions are to be performed by the Council and certain City officers; now, therefore, the City officials are hereby permitted and authorized to exercise the functions therein stated for and on behalf of the State as herein provided.~~

~~Chapter 3.67 Performing Arts Advisory Committee~~

~~(Chapter added by Ordinance 152285, effective September 17, 1981.)~~

~~3.67.010 Creation and Organization.~~

~~(Amended by Ordinance 153332, effective June 9, 1982.)~~

~~There hereby is created an Advisory Committee to the Commissioner In Charge of the Portland Center for the Performing Arts City Administrator to be known as the Performing Arts Center Advisory Committee. The Committee shall will consist of 13 voting members who shall will serve without compensation. The Commissioner In Charge City Administrator shall appoint the members and shall will designate the Chairman. Each member shall will serve at the pleasure of the Commissioner In Charge. Upon completion for occupancy of all the facilities composing the Portland Center for the Performing Arts, the Performing Arts Center Advisory Committee shall will be disbanded. In case of vacancy by death, incapacity to serve, or resignation, the Commissioner In Charge City Administrator shall will appoint a successor to serve the remainder of the vacant term. The Commissioner In Charge City Administrator, or that person's representative, shall will be an ex officio member of the Committee, but shall will not be entitled to vote.~~

~~3.67.020 Procedure and Rules of Committee.~~

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

~~3.67.030 Duties.~~

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

~~Chapter 3.68 Formal Japanese Garden Commission~~

~~3.68.010 Created.~~

~~3.68.020 Powers and Duties.~~

~~3.68.030 Meetings.~~

~~3.68.040 Officers.~~

~~3.68.050 Rules—Quorum.~~

~~3.68.060 Vacancy—Removal.~~

~~3.68.010 Created.~~

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

~~3.68.020 Powers and Duties.~~

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

~~3.68.030 Meetings.~~

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

~~3.68.040 Officers.~~

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

~~3.68.050 Rules -- Quorum.~~

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

~~3.68.060 Vacancy -- Removal.~~

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

~~Chapter 3.70 Pittock Mansion Advisory Commission~~

~~3.70.010 Created -- Terms.~~

~~3.70.020 Powers and Duties.~~

~~3.70.030 Special Committees and Services.~~

~~3.70.040 Meetings.~~

~~3.70.050 Officers.~~

~~3.70.060 Rules -- Quorum.~~

~~3.70.070 Vacancy.~~

~~3.70.010 Created – Terms.~~

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

~~3.70.020 Powers and Duties.~~

~~(Amended by Ordinance 154194; repealed by Ordinance 167733, effective June 1, 1994.)~~

~~3.70.030 Special Committees and Services.~~

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

~~3.70.040 Meetings.~~

~~(Amended by Ordinance 154194; repealed by Ordinance 167733, effective June 1, 1994.)~~

~~3.70.050 Officers.~~

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

~~3.70.060 Rules – Quorum.~~

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

~~3.70.070 Vacancy.~~

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

Chapter 3.72 Committee on Claims

3.72.010 Created - Members - Meetings.

3.72.020 Presentation of Claims.

3.72.030 Consideration of Claims Not Covered by Insurance.

~~3.72.040 Claims Covered by Insurance.~~

3.72.010 Created - Members - Meetings.

~~(Amended by Ordinances 132014 and 163439, effective September 5, 1990.)~~

A. Created. A ~~c~~Committee to be known as the "Committee on Claims" is ~~hereby~~ created for the purpose of considering fair and moral claims against the City not covered by insurance and making recommendations concerning the claims to the ~~City Council~~Mayor.

B. Members. This Committee on Claims shall will consist of two members ~~of the City Council~~ appointed by the Mayor, one of whom shall will be designated Chair~~man~~, and the ~~City~~ Auditor. The Risk Manager shall will meet with the Committee on Claims, without power of vote, and serve as Secretary.

C. Meetings. The Committee on Claims shall will meet at times designated by the Chair~~man~~.

3.72.020 Presentation of Claims.

~~(Amended by Ordinance 163439, effective September 5, 1990.)~~

All fair and moral claims against the City shall will must be presented to the Risk Manager. Presentation to the Risk Manager shall will, for all legal purposes, be regarded as presentment to ~~the Council of~~ the City. Nothing contained ~~herein in this Ssection shall will may~~ be construed as repealing or modifying any of the provisions of Sections 1-106 and 1-107 of the Charter.

3.72.030 Consideration of Claims Not Covered by Insurance.

~~(Amended by Ordinance 163439, effective September 5, 1990.)~~

The Risk Manager ~~shall~~will investigate and process all fair and moral claims against the City. The Risk ~~M~~anager ~~shall~~will present to the meeting of the Committee on Claims all facts and evidence gathered. The Committee on Claims shall will make a recommendation on all claims presented, ~~and the same shall will be transmitted to the Council Mayor or the City Administrator~~ for their consideration and final decision.

~~3.72.040 Claims Covered by Insurance.~~

~~(Repealed by Ordinance 163439, effective September 5, 1990.)~~

Chapter 3.74 Oaths of Office

3.74.010 Persons Required to Take Oath.

~~(Amended by Ordinances 180917 and 189635, effective August 31, 2019.)~~

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

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

~~(Amended by Ordinances 168343 and 189635, effective August 31, 2019.)~~

The form of oath to be taken by the elected officials of the City, after receiving a certificate of election from the City Elections Officer and before entering upon the discharge of their duties, ~~shall~~will be substantially as follows:

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

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

3.74.030 Form of Oath for Non-Elected City Employees.

~~(Amended by Ordinances 139501, 168343 and 189635, effective August 31, 2019.)~~

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

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

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

3.74.040 Administering Oaths.

~~(Added by Ordinance 189635, effective August 31, 2019.)~~

When an oath is required by this Chapter:

- A. ~~A.~~—The oath may be administered by the ~~City~~ Auditor, a deputy ~~City~~ Auditor, a notary public, or a judge or magistrate of any court of record in the United States, within their respective jurisdictions.
-

- B. Oaths ~~shall will~~ must be in writing and signed by the persons taking and administering the oath. Whenever the oath is administered by a person other than the ~~City~~ Auditor or a deputy ~~City~~ Auditor, the credentials of the person administering the oath ~~shall will~~ appear on the document, and the oath ~~shall will~~ be sent immediately to the ~~City~~ Auditor.

Chapter 3.76 Public Records

~~(Chapter replaced by Ordinance 182637, effective May 1, 2009.)~~

3.76.010 Definitions.

In this Chapter, unless the context otherwise requires:

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

3.76.020 Purpose.

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

3.76.030 Archives and Records Management Program Creation and Administration.

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

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

The Archives and Records Management Program ~~shall~~will:

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

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

3.76.050 Duties of Elected Officials, City Administrator, and the ~~Managers of City Agencies~~.

~~Each~~ City elected officials, the City Administrator -and agencyiesy manager shall~~must~~:

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

set by Archives and Records Management for security and environment;

- K. Designate a ~~management level employee to act as a~~ liaison between the agency and Archives and Records Management on all matters relating to the ~~A~~archives and ~~R~~ecords ~~M~~management ~~P~~rogram.

3.76.060 Care of Records.

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

3.76.070 Destruction of Records.

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

3.76.080 Use of Copies.

- A. When original City records are reproduced and placed in conveniently accessible files and provisions are made for preserving and using them for the duration of their legally mandated retention, the originals from which they were made may be destroyed.
- B. Reproduction or replacement of City records made under this Chapter are admissible in evidence as primary evidence of the original writing.

3.76.090 Public Access to Records.

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

Chapter 3.77 Office of the Ombudsman

~~(Chapter added by Ordinance 175568, effective July 1, 2001.)~~

3.77.010 Purpose.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

The Office of the Ombudsman is an independent, impartial office, readily available to the public, responsible to the ~~City~~ Auditor, empowered to investigate the administrative acts of City departments, bureaus and other administrative agencies, issue reports and recommend appropriate changes toward the goals of safeguarding

the rights of persons and of promoting higher standards of fairness, competency, efficiency and justice in the provision of city services.

3.77.020 Definitions.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

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

3.77.030 Office of the Ombudsman.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

There is established in accordance with City Charter Section 2-509 the Office of the Ombudsman.

3.77.040 Ombudsman Selection.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

The ~~City~~ Auditor ~~shall~~will select the Ombudsman in accordance with the Auditor's human resource policies and rules and other applicable laws.

3.77.050 Qualifications and Prohibitions.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

- A. The Ombudsman ~~shall~~will be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems pertaining to ~~c~~City regulations, administration, and public policy, and ~~will~~ shall have a working knowledge in local government commensurate to the powers and duties of the office. The Ombudsman ~~will~~ shall be a registered voter of the United States, and ~~will~~ shall hold a degree from an accredited college/university, or its equivalent in service to local government.
- B. No person may serve as Ombudsman while engaged in any other occupation, business, or profession likely to detract from the full-time performance of their duties as Ombudsman or to result in a conflict of interest or an appearance of impropriety or partiality. All laws and requirements generally applicable to public employees are applicable to the Ombudsman.

3.77.060 Reserved.

3.77.070 Removal.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

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

3.77.080 Staff and Delegation.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

- A. The ~~Ombudsman Auditor's Office~~ may ~~appoint~~hire ~~a deputy~~deputies who ~~are~~is accountable to the Ombudsman and other personnel necessary to carry out the provisions of this chapter, when in keeping within the adopted budget for the Ombudsman's Office.
- B. The Ombudsman may delegate to staff members any of the Ombudsman's duties, unless otherwise specified in this ~~C~~chapter.

~~C. The deputy shall succeed to all duties and responsibilities of the Ombudsman, including those specified by ordinance, when serving as the acting Ombudsman.~~

3.77.090 Reserved.

3.77.100 Office Facilities and Administration.

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

3.77.110 Powers and Duties.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

The Ombudsman's powers and duties include, but are not limited to, the following:

- A. To investigate, on complaint or on the Ombudsman's own initiative, any administrative act of an agency, without regard to the finality of the administrative act, if the Ombudsman reasonably believes that it is an appropriate subject for review;
- B. To undertake, participate in or cooperate with persons and agencies in such general studies, conferences, inquiries, meetings, or studies which might improve the functioning of agencies or lessen the risks that objectionable administrative acts will occur;
- C. To make such inquiries and obtain such reasonable assistance and information from any agency or person as the Ombudsman ~~shall may~~ require for the discharge of the Ombudsman's duties; and may without prior notice enter and inspect the premises of any agency. Agencies ~~shall may~~ not restrict the Ombudsman's access to agency employees, subject to collective bargaining obligations to the City's recognized bargaining units;
- D. In accordance with City Charter, subject to collective bargaining obligations to the City's recognized bargaining units, to have timely access to and to examine and copy, without payment of a fee, any agency information and records, including confidential and legally privileged information and records so long as privilege is

not waived as to third parties, subject to any applicable state or federal laws. The Ombudsman ~~shall~~will not disclose confidential or legally privileged information or records and ~~shall~~will be subject to the same penalties as the legal custodian of the information or records for any unlawful or unauthorized disclosure;

- E. To request any person or agency to give sworn testimony or to timely produce documentary or other evidence that is reasonably relevant to the matters under investigation;
- F. To maintain confidential any matter related to complaints and investigations to the extent allowable by law, except as the Ombudsman deems necessary to discharge the Ombudsman's duties or as directed by the District Attorney pursuant to a public records request;
- G. To take appropriate measures to enforce the provisions of this ~~C~~ehapter, including issuing reports, submitting recommendations, or seeking ~~Council~~ authorization for legal recourse if necessary to carry out the duties of the Office of the Ombudsman;
- H. To adopt, promulgate, amend and rescind rules and regulations required for the discharge of the Ombudsman's duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and recommendations. However, the Ombudsman may not levy any fees for the submission or investigation of complaints; ~~and~~and
- I. To ~~insure~~ensure that a budget for the Office of the Ombudsman is well-~~pre~~pared and administered.

3.77.120 Investigations of Complaints.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

- A. The Ombudsman ~~shall~~will receive complaints from any source concerning any administrative act. The Ombudsman may conduct a suitable investigation of a complaint that is an appropriate subject for investigation. An appropriate subject for investigation by the Ombudsman includes any administrative act that the Ombudsman believes might be:
 - 1. contrary to, law, regulation or agency practice;
 - 2. unreasonable, unfair, oppressive, arbitrary, an abuse of discretion, or unnecessarily discriminatory even though in accordance with law;
 - 3. based on mistaken facts or irrelevant considerations;
 - 4. unclear or ~~not~~ adequately explained;
 - 5. performed in an inefficient or discourteous manner; ~~or~~or

6. otherwise erroneous or objectionable.
- B. The Ombudsman, at the Ombudsman's discretion, may decide not to investigate a complaint because:
1. the complainant could reasonably be expected to use, or is using, another remedy or channel, or tort claim, for the grievance stated in the complaint;
 2. the complaint relates to a matter that is outside the jurisdiction of the Ombudsman;
 3. the complaint has been too long delayed to justify present examination;
 4. the complainant does not have a sufficient personal interest in, or is not personally aggrieved by, the subject matter of the complaint;
 5. the complaint is trivial, frivolous, vexatious or not made in good faith;
 6. the resources of the Ombudsman's ~~Office-office~~ are insufficient for adequate investigation; or
 7. other complaints are more worthy of attention.
- C. The Ombudsman ~~shall~~may not investigate matters currently in litigation; matters covered by collective bargaining agreement grievance procedures; ~~or~~; employee or applicant discrimination complaints.
- D. The Ombudsman's declining to investigate a complaint ~~shall~~will not bar the Ombudsman from proceeding on their own initiative to investigate an administrative act whether or not included in the complaint.
- E. The Ombudsman ~~shall~~will protect the confidentiality of complainants or witnesses coming before them consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the Ombudsman to carry out their duties or the disclosure of records is directed by the District Attorney. (See Subsection 3.77.110 F.)
- F. The Ombudsman ~~shall~~will have the authority to pursue administrative review of responses to complaints through higher authorities within the City.

3.77.130 Communications with Agencyies

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

- A. The Ombudsman may make recommendations to an agency for the resolution of complaints and inquiries in accordance with this Chapter and City Charter.

B. In seeking a resolution to a complaint or inquiry, the Ombudsman may draw the matter to the attention of the City Administrator, any agency head or division manager, the City Auditor, Mayor, City the Commissioner Council, or the public.

C. Before formally issuing a report with a conclusion or recommendation that is significantly critical or adverse to an agency, the Ombudsman ~~shall~~will ~~have~~ consulted ~~ed~~ with that agency and permitted ~~ed~~ the agency reasonable opportunity to reply. The Ombudsman may require an agency to notify them within a reasonable specified time of any action taken on a conclusion or recommendation. The Ombudsman will provide the opportunity to include with a final report a brief statement by the agency.

3.77.140 Communications with Complainant.

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

B. The Ombudsman ~~shall~~will, if requested by the complainant, report the status of ~~his or her~~their investigation to the complainant.

C. After investigation of a complaint, the Ombudsman ~~shall~~will inform the complainant of ~~his or her~~their conclusion or recommendation and, if appropriate, any action taken or to be taken by the agency involved.

3.77.150 Procedure after Investigation.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

A. If, after investigation, the Ombudsman is of the opinion that an agency should:

1. consider the matter further;;
2. modify or cancel an act;;
3. alter a regulation, ruling, practice, policy or procedure;
4. explain more fully the act in question;; or
5. rectify an omission, or take any other action,

the Ombudsman ~~shall state~~will provide the agency with any conclusions, recommendations and reasons ~~therefor on which the Ombudsman's opinion is based to the agency~~. If the Ombudsman ~~so~~ requests, the agency ~~shall~~will, within the time specified, inform the Ombudsman about ~~the any~~ action taken in response to the Ombudsman's ~~on~~ recommendations or the reasons for not implementing them.

B. After a reasonable period of time has elapsed, the Ombudsman may issue final conclusions or recommendations to the Auditor, the Mayor, the City Administrator,

~~and City Commissioners~~Council or a committee of Council, a grand jury, the public, or any other appropriate authority. The Ombudsman ~~shall~~will include any brief statement the agency may provide if an opportunity to reply is required by this Chapter.

C. If the Ombudsman believes that an action has been dictated by laws whose results are unfair or otherwise objectionable, and could be revised by ~~City~~Council action, the Ombudsman ~~shall~~will notify the ~~City~~Council and the agency of a desirable statutory change.

D. If the Ombudsman believes that any agency official or ~~City~~City employee has acted in a manner warranting criminal or disciplinary proceedings, the Ombudsman ~~shall~~may refer the matter to the appropriate authorities without notice to that person.

3.77.160 Informing Community Members.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

The Ombudsman ~~shall~~will post notices or use other appropriate means to inform community members of their rights ~~and~~and, protections, ~~and as well as the~~and as well as the availability of services provided for under this Chapter and City Charter Section 2-509. These notices may include posted notices in public areas; ~~or~~or, electronic postings or links through Internet web-sites, including ~~the a City~~the a City web~~site~~site. Nothing in this section is to be construed as repealing any other provisions of contract, ordinance or law.

3.77.170 Reports.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

The Ombudsman may from time to time and ~~shall~~will annually report the Office of the Ombudsman's activities to the ~~Auditor~~Mayor, the City Administrator, and City Council, or any of its committees, ~~to~~to the public and, in the Ombudsman's discretion, to agencies.

3.77.180 Reserved.

3.77.190 Duty to Cooperate.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

City employees ~~shall~~will cooperate with the Ombudsman in the exercise of ~~their~~the ~~Ombudsman's~~Ombudsman's powers, and ~~shall~~will not mislead or attempt to mislead an Ombudsman's inquiry.

3.77.200 Ombudsman Immunities.

~~(Amended by Ordinance 188842, effective March 30, 2018.)~~

To the maximum extent allowable by law, the Ombudsman and the Ombudsman's staff ~~shall~~will not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to any matter involving the exercise of their official duties except as may be necessary to enforce this Chapter and City Charter Section 2-509.

3.77.210 Reprisals Prohibited.

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

3.77.220 Relationship to Other Laws.

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

3.77.230 Effective Date

~~This Act shall take effect on July 1, 2001.~~

~~Chapter 3.78 Acquisition of County Property for Park Purposes~~

~~— 3.78.010 Authorization for Payment.~~

~~— 3.78.020 Title Reports.~~

~~— 3.78.030 Clearing of Title.~~

~~— 3.78.040 Retaining Property with Cloud on Title.~~

~~3.78.010 Authorization for Payment.~~

~~(Amended by Ordinances 173369 and 189452, effective May 10, 2019.)~~

- ~~1. In all cases, past, present or future, in which an ordinance provides for the acquisition of park property from Multnomah County and where Multnomah County does not furnish an abstract or title insurance, the Accounting Division is hereby authorized to draw and deliver a check in favor of Multnomah County for the amount to be paid for the deed from the county unless such ordinance indicates specifically a purpose to disregard this Chapter and thereupon the Accounting Division shall submit the matter to the City Attorney.~~

~~3.78.020 Title Reports.~~

- ~~1. The City Attorney hereby is authorized to obtain a policy of title insurance covering any particular parcel or parcels of property purchased in the past or in the future from Multnomah County for park and playground purposes. The expense of such title reports shall be chargeable to the public recreational areas fund.~~

~~3.78.030 Clearing of Title.~~

- ~~1. The City Attorney hereby is authorized to initiate and prosecute whatever legal action is necessary in his opinion to clear the title to any property covered by this Chapter and in any case, past, present or future, where he deems it necessary. Any expense incident thereto shall be chargeable to the public recreational areas fund.~~

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

- ~~1. Authority is hereby granted to accept and retain any property covered by this Chapter that has cloud on the title when and if the City Attorney renders an opinion that such cloud on title is not be deemed in imminent hazard.~~

Chapter 3.80 Special Permits

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

- ~~1. It is unlawful for any person, who has been granted a special permit, whether under any special code or not, to continue to operate under the terms of the permit after the date on which the special permit, by its terms, expires. All persons to whom such a special permit has been granted by the Council shall come within the terms of this provision and comply herewith immediately after the expiration of the special permit by ceasing the operations allowed under the terms of the special permit.~~

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

- ~~1. Park property not needed by the City for development may be used by private parties for gardening purposes by obtaining a special permit. The bureau of parks is authorized to issue revocable permits for such purpose and shall impose such conditions as are necessary and advisable to protect the interests of the City.~~

~~Chapter 3.82 Officer and Employee Bonds~~

~~3.82.010 Exceptions. Officer and Employee Bonds~~

~~3.82.020 Bond of the City Treasurer.~~

~~3.82.030 City Auditor's Bond.~~

~~3.82.010 Exceptions Officer and Employee Bonds.~~

~~All officers and employees, including the City Auditor, but not including the Mayor and City Commissioners Council, shall will furnish a performance and fidelity bond or bonds assuring faithful performance of their duties and protecting the City against dishonesty, which bond or bonds shall will be in the amount of at least \$10,000 per officer or employee, with a further bond or bonds written as excess in the amount of at least \$40,000 per officer or employee. Such The bond amount for following city officials will be:~~

- ~~—— At least \$50,000 for the Auditor, the Mayor and each Councilor;~~
- ~~—— At least \$200,000 for the City Administrator; and~~
- ~~—— A least \$200,000 for the employees who serve as the City's chief financial officer and the City Treasurer.~~

~~The bond or bonds shall will run to the City, and the premium shall will be paid by the City. The Mayor or City Administrator may determine the specific bond amount to protect the City.~~

~~Chapter 3.84 City Owned Motor Vehicle Accident Reports~~

~~—— 3.84.010 Filing of Accident Report.~~

~~—— 3.84.020 Form of Report.~~

~~—— 3.84.030 Repair Shop Report.~~

~~—— 3.84.040 Repair.~~

~~—— 3.84.050 Billing of Charges.~~

~~3.84.010 Filing of Accident Report.~~

~~(Amended by Ordinance 165594, effective July 8, 1992.)~~

- ~~1. In addition to the requirements of ORS 813, accident reports shall be filed:~~
- ~~2. A. Whenever any motor vehicle belonging to the City, whether being operated by a City employee or not, becomes involved in an accident resulting in injury or death to any person or damage to the City vehicle or property of another, the operator of the City vehicle or the person to whom the vehicle is assigned or chargeable, shall, not later than the next normal day of business following the date of the accident, forward a complete written report of such accident, in triplicate, to the Bureau of Property Control upon forms furnished by the City. The Property Control Officer shall forward one copy of every report so filed, to the office of the City Attorney not later than the next normal day of business following the day of the filing;~~
- ~~3. B. Whenever the original report and duplicate is insufficient in the opinion of the Property Control Officer of the City Attorney, supplemental reports of accidents may be required of the person or persons chargeable therefor;~~
- ~~4. C. Whenever the driver of a vehicle involved in an accident is injured thereby so as to be incapable of making a required accident report and there was another City employee occupant in the vehicle at the time of the accident capable of making a report, such occupant shall make or cause the report to be made.~~

~~3.84.020 Form of Report.~~

- ~~1. The Bureau of Property Control shall prepare or otherwise provide, and upon request supply to the various departments and bureaus of the City, forms for accident reports required in Section 3.84.010. The report shall call for sufficiently detailed information to disclose with reference to an accident involving a City owned motor vehicle, the cause, conditions then existing, and the persons and property involved.~~

~~3.84.030 Repair Shop Report.~~

- ~~1. The person in charge of the bureau repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident, shall report in writing to the Bureau of Property Control not later than the next normal day of business after such motor vehicle is received, giving the City property number of such vehicle, department, and a general description of the damage.~~

~~3.84.040 Repair.~~

- ~~1. Every City owned motor vehicle damaged as defined in the subdivision (1) of Section 3.84.010 shall be removed to the municipal shop for repairs as soon as conveniently possible following the accident, but in no event more than 7 days thereafter, provided, however:~~
- ~~2. A. That no vehicle shall be repaired without prior authorization of the Commissioner In Charge of the bureau to which the vehicle is assigned, or his authorized representative,~~

~~except in the event of emergency whereupon the said Commissioner shall be notified within 72 hours of all such work done; and~~

- ~~3. B. In no event shall any vehicle be repaired by other than a City owned and operated repair shop unless and until the Purchasing Agent of the City shall have first obtained at least three independent estimates of cost of repair, and in such event the repair work shall be awarded to the lowest responsible bidder.~~

~~3.84.050 Billing of Charges.~~

~~(Amended by Ordinance 189452, effective May 10, 2019.)~~

- ~~1. No request for billing of charges for repair of motor vehicles damaged as defined in this Chapter shall be forwarded to the Office of Management and Finance as in Section 5.48.040 provided, until the validity thereof based upon determination of liability shall have first been approved by the City Attorney.~~

Chapter 3.86 Golf Advisory Committee

3.86.010 Created Organization.

3.86.020 Procedure and Rules.

3.86.030 Duties.

3.86.010 Created Organization.

An advisory committee to the ~~Commissioner in Charge~~City Administrator and Director of Portland Parks and Recreation is created and is known as the Golf Advisory Committee, consisting of a minimum of 9 and a maximum of 15 voting members who will serve without compensation. Members will be entitled to the use of each of the City's golf facilities, up to four times per year at no charge. Following each member's visit to one of the golf facilities on this basis, they will be required to document the business purpose of the visit on a GAC Visit Form provided by the City. The ~~Commissioner in Charge~~Mayor will appoint members to serve for a term of three years, and members may serve two consecutive terms. Appointment of members is subject to Council confirmation. The ~~Commissioner in Charge~~Mayor will seek, to the extent feasible, to promote socio-economic diversity in appointments to the Committee, and, in order to accomplish or promote diversity, may authorize, in the ~~Commissioner's~~Mayor's sole discretion, complimentary use of the City's golf facilities in addition to that provided to ~~Committee~~ members under this Section. The requirement of this Section that members document the business purpose of their complimentary use of golf facilities will apply to the additional use authorized ~~by the Commissioner.~~ The ~~Commissioner in Charge~~Mayor or their representative will be an advisor to the Committee.

3.86.020 Procedure and Rules.

The Golf Advisory Committee ~~shall~~will establish operating rules, bylaws, and procedures for all matters for consideration or action by the Committee, subject to the approval of the City Attorney. The Committee ~~shall~~will hold meetings at such time as is set by the body and at any other time at the call of the Committee Chair.

3.86.030 Duties.

The Golf Advisory Committee duties ~~shall~~will include, but not be limited to advising the ~~Commissioner in Charge~~City Administrator and the Director ~~of Parks~~ regarding the following areas: Golf Program budget review; review of the ~~G~~golf Program's Capital Improvement Program; review of golf ~~concession operating~~ contracts, ground leases and proposals; review of the development, and monitoring of, the Golf Program's Strategic Plan; the marketing of the ~~municipal~~ Golf System Program; and maximization and use of Golf System Program revenue. The Golf Advisory Committee ~~shall~~will make an annual written report to the ~~Commissioner in Charge~~Mayor, City Administrator, the Director ~~of Parks~~ and ~~to the~~ Council.

Chapter 3.88 Investment Advisory Committee

3.88.010 Created - Organization.

3.88.020 Procedure and Rules.

3.88.030 Duties.

~~(Chapter added by Ordinance 135093; amended by Ordinances 143470 and 151419, effective April 16, 1981.)~~

3.88.010 Created - Organization.

~~(Amended by Ordinances 167877 and 181483, effective January 18, 2008.)~~

~~There hereby is created a~~An advisory committee is created to advise the ~~Commissioner In Charge~~Mayor, the ~~Director of the Office of Management and Finance~~City Administrator, and the ~~City~~ Treasurer, and will be known as the Investment Advisory Committee. The Committee ~~shall~~will consist of a minimum of three public members who ~~shall~~will serve without compensation. The ~~Commissioner In Charge, with approval by the Council,~~Mayor shall appoints the public members of the Committee to serve for two2-year terms that are renewable, subject to confirmation by the Council. The Debt Manager ~~shall~~will be an ~~ex-officio~~ memberadvisor of the Committee. In case of the resignation, death, or inability to serve of any member, the ~~Commissioner~~Mayor may appoint a successor to serve out the unexpired term subject to approval~~confirmation~~ by the Council.

3.88.020 Procedure and Rules.

~~(Amended by Ordinances 167877 and 181483, effective January 18, 2008.)~~

The Investment Advisory Committee ~~shall~~will establish ~~its own~~ rules, bylaws, and ~~provide the procedures necessary to the conduct of its duties, and will provide these for the City Attorney's legal review for all matters for consideration or action by the Committee.~~ The Committee ~~shall~~will hold ~~at least three~~ meetings ~~per year~~ at ~~such times as is~~ set by the ~~body~~ Committee ~~and, and~~ at any other time at the call of the Chair ~~or the Mayor~~. The ~~City Administrator~~ Office of Management and Finance ~~shall~~will provide ~~clerical-administrative~~ staff support.

3.88.030 Duties.

~~(Amended by Ordinances 167877 and 181483, effective January 18, 2008.)~~

The Investment Advisory Committee ~~shall~~will advise ~~the Commissioner In Charge Mayor, the Deputy City Administrator for Budget and Finance Director of the Office of Management and Finance, the City Council and the City Treasurer of the City~~ on: investment policies and investment practices of the City; maximum bank balances to be maintained by the City; and such other investment matters as the ~~Commissioner in Charge of the Office of Management and Finance Mayor, the City Council, or the City Administrator Director of the Office of Management and Finance~~ may request.

Chapter 3.96 Office of Community and Civic Life

3.96.010 Purpose.

3.96.020 Definitions.

3.96.030 Neighborhood Associations.

3.96.040 ~~Functions of~~ District Coalitions.

~~3.96.*** Business District Associations~~

3.96.050 ~~Business Districts. Responsibility of City Agencies.~~

3.96.060 Responsibilities of the Office of Community & Civic Life.

~~(Chapter replaced by Ordinance 179418; amended by Ordinance 189078 effective July 18, 2018.)~~

3.96.010 Purpose.

~~(Amended by Ordinance 189078, effective July 18, 2018.)~~

This ~~e~~Chapter creates a framework by which the people of the City ~~of Portland~~ may effectively participate in civic affairs and work to improve the livability and character of their Neighborhoods and the City. This Chapter sets out the basis for City recognition of Neighborhood Associations, District Coalitions, ~~and, and the responsibilities and benefits accruing thereto. This Chapter also sets out the basis for Citycity acknowledgement of Business District Associations and the responsibilities accruing thereto.~~ This ~~C~~Chapter also creates the Office of Community & Civic Life and sets out its functions, duties and responsibilities. Nothing in this Chapter ~~will~~ will ~~limits~~

the right of any person or group to participate directly in the decision-making processes of the ~~City Council or of any City Administrator~~City agency.

3.96.020 Definitions.

~~(Amended by Ordinance 189078, effective July 18, 2018.)~~

As used in this Chapter, the following terms have the meanings given them in this Section.

A. Neighborhood: A geographically contiguous self-selected community.

B. Neighborhood Association: An autonomous organization formed by people for the purpose of considering and acting on issues affecting the livability and quality of their Neighborhood, formally recognized by the ~~Office of Community & Civic Life~~City, and subject to ~~Chapter 3.96~~administrative rules.

C. District Coalition: ~~An independent non-profit corporation directed by a board which that is primarily composed of representatives from its member Neighborhood Associations and that An organization which~~ supports participation services for Neighborhood Associations and everyone within a geographically defined area, and ~~is~~ subject to ~~Chapter 3.96~~Standards.

~~1. Non-Profit District Coalition: An independent non-profit corporation directed by a board which is primarily composed of representatives from its member Neighborhood Associations.~~

~~2. City Staffed District Coalition: An office partially or fully staffed by City personnel to provide neighborhood services as advised by the participating Neighborhood Associations.~~

D. Business District Association: An autonomous non-profit organization with membership guidelines in its bylaws formed by people in business within a defined geographic boundary for the purpose of promoting the general well-being of their business community, and subject to Standards. ~~A Business District Association is subject to Chapter 3.96.~~

~~E. Office of Community & Civic Life: An agency of the City of Portland, whose purpose is to facilitate citizen community participation and improve communication among citizens, Neighborhood Associations, non-profit District Coalitions/City staffed District Coalitions, City agencies, and other entities. The Office of Community & Civic Life is subject to these Standards.~~

~~EF. City agency: Includes all departments, bureaus, offices, boards, and City Administrators~~ commissions of the City ~~of Portland~~.

~~FG. Standards: Regulations adopted by City Council~~Administrative Rules that govern engagement with Neighborhood Associations, District Coalitions, Business District Associations, ~~and the Office of Community & Civic Life.~~

3.96.030 Neighborhood Associations.

~~(Amended by Ordinance 189078, effective July 18, 2018.)~~

~~A. Minimum Standards for Neighborhood Associations. To receive and maintain formal recognition, Neighborhood Associations will meet the Standards for neighborhood public involvement.~~

AB. Functions of Neighborhood Associations. A Neighborhood Association may engage in, but is not limited to, the following:

1. Make recommendation(s) concerning a particular action, policy or other matter to ~~the~~any City ~~agency~~ on any topic affecting the livability, safety and economic vitality of the Neighborhood, including but not limited to land use, housing, community facilities, human resources, social and recreational programs, traffic and transportation, environmental quality and public safety; ~~and,~~
2. Assist ~~the~~ City ~~agencies~~ in determining priority needs of the Neighborhood; ~~and,~~
3. Review items for inclusion in the City budget and make recommendations relating to budget items for Neighborhood improvement; ~~and,~~
4. Undertake projects and activities deemed appropriate by the Neighborhood Association; ~~and,~~
5. Cooperate with other Neighborhood Associations and ~~Office of Community & Civic Life to create~~the assigned District Coalitions.

BC. Responsibilities of Neighborhood Associations.

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

CD. Benefits to Neighborhood Associations.

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

3.96.040 ~~Functions of~~ District Coalitions.

~~(Amended by Ordinance 189078, effective July 18, 2018.)~~

A District Coalition will:

- A. Provide training and orientation, information and support services to Neighborhood Associations within the areas of Neighborhood Associations served;
- B. Facilitate communication between people and government;
- C. Promote public participation within the areas of Neighborhoods served on issues of livability, safety, and public policy;

D. Promote, encourage and support the participation of members of diverse communities within the areas of Neighborhoods served; and

E. Administer contracts or memorandums of understanding and operate the District Coalition in accordance ~~with the adopted~~ Standards; and

~~F. Abide by the Standards established by the Office of Community & Civic Life.~~

3.96.050* Business Districts** ~~[1:31 PM] Ratbi, Mourad~~

~~BDA = An autonomous non-profit organization with membership guidelines in its bylaws formed by people in business within a defined geographic boundary for the purpose of promoting the general well-being of their business community. A Business District Association is subject to these implementing Standards~~

A. Functions of Business Districts. A Business District may engage in, but is not limited to, the following:

1. Make recommendation(s) concerning a particular action, policy, or other matter to the City on any topic affecting the livability, safety, and economic vitality of the Business District, including but not limited to land use, housing, community facilities, human resources, social and recreational programs, traffic and transportation, environmental quality, and public safety;

2. Assist the City in determining priority needs of the Business District;

3. Review items for inclusion in the City budget and make recommendations relating to budget items for Business District improvement;

4. Undertake projects and activities deemed appropriate by the Business District; and;

5. Cooperate with other Business Districts. ~~[1:32 PM] Ratbi, Mourad~~

~~broad BDA definition— various items can be put in bullet points format to comply with used format~~

3.96.050 Responsibility of the City City Agencies.

~~A. The City agencies will notify all Neighborhood Associations affected by planning efforts or other actions affecting the livability of the Neighborhood(s).~~

~~B. The City agencies will include affected Neighborhood Associations and District Coalitions in planning efforts which affect neighborhood livability.~~

~~C. Notice of pending policy decisions affecting neighborhood livability will be given to the Neighborhood Association(s) affected at least 30 days prior to final action on the decision by the City agency. If said the 30-day period may injure or harm the public health, safety, welfare, or result in a significant financial burden to the City, this notice provision will not apply.~~

3.96.060 Responsibilities of the Office of Community & Civic Life.

~~(Amended by Ordinances 186216, 187359, 189078 and 191208, effective April 1, 2023.)~~

~~The City There is hereby established and created an Office of Community & Civic Life which will consist of a Director City Administrator Director and such other employees as the Council City may from time to time provide.~~ In order to facilitate participation and improved communication between the public, Neighborhood Associations, Business District Associations, District Coalitions and the City, the Office of Community & Civic Life will:

- A. Assist Neighborhood Associations, District Coalitions and others in planning and developing programs for ~~public involvement~~community engagement, ~~crime prevention, dispute resolution~~ and budget review;
- B. Act as an ~~information clearinghouse and~~ resource to Neighborhood Associations, District Coalitions, and Business District Associations, community-based organizations, other groups, and the public;
- C. Notify ~~interested persons~~the public of meetings, hearings, elections, and other public participation events of the ~~Office of Community & Civic Life~~City's neighborhood or business district system;
- D. Enter into, monitor, and administer contracts, and memorandums of understanding for Neighborhood Associations through District Coalitions;
- E. Promote and facilitate open communication and notification from ~~the~~ City ~~agencies to~~ Neighborhood Associations, District Coalitions, and Business District Associations, and promote and facilitate communication among ~~st the~~ City ~~agencies~~ about public involvement best practices and policy;
- F. Support and promote public involvement within the Neighborhood Association and District Coalition framework;
- G. Adopt and revise such Standards as are deemed necessary for the implementation of this Chapter and for orderly public involvement in City government through Neighborhood Associations, ~~and~~ District Coalitions and Business District Associations. In so doing, the Office of Community & Civic Life will seek representation from Neighborhood Associations, District Coalitions, Business District Associations, diverse community interests, city agencies that engage in considerable public involvement activities, and other interested people as necessary;
- H. Pursuant to the ~~adopted~~ Standards, formally recognize a Neighborhood Association and ~~or~~ acknowledge a Business District Association. If a Neighborhood Association or Business District Association fails to meet the minimum requirements of ~~C~~chapter 3.96, the Office of Community & Civic Life may suspend partial or all benefits and may ultimately revoke formal recognition of a Neighborhood Association or acknowledgement of a Business District Association;
- I. Promote, encourage and support diverse and multicultural public involvement;
- J. Establish open and fair grievance procedures for Neighborhood Associations, and District Coalitions, ~~and the Office of Community & Civic Life;~~
- K. Establish open meetings and public records standards for Neighborhood Associations and District Coalitions; and

L. ~~Perform o~~Other duties as assigned to the Office by Council.

Unlisted items:

- ~~— Multi-districts acknowledgment or not~~
- ~~— Bylaws changes for DCO + NA (to be refined – if it can be eased a bit per stakeholders request)~~
- ~~— ONI standards modification? (mainly around grievance process)~~
- ~~— Would this be doable: When someone files for a public records request, we charge for city staff time spent on searching and compiling public records. Given the limited staff time available to address grievances/appeals, we should consider using the same/similar process as we do with public records requests. I propose the following:~~
- ~~— First grievance/first appeal in a calendar year would cost nothing.~~
- ~~— Any grievances or appeals filed after that in a calendar year would be subject to fees.~~
- ~~— Each grievance or appeal filed in a calendar year would see a progressive increase in fees.~~
- ~~— Fees should be based on formula used for public records request *plus* a multiplier for each subsequent grievance or appeal filed.~~

~~Chapter 3.98 Towing Board of Review~~

~~(Chapter repealed by Ordinance 190511, effective July 28, 2021.)~~

~~Chapter 3.99 Fair Wage Policies~~

~~3.99.005 Policy.~~

~~3.99.010 Covered Services and Agreements.~~

~~3.99.015 Compliance.~~

~~3.99.020 Adjustments.~~

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

~~(Chapter added by Ordinance 174839, effective August 24, 2000.)~~

~~3.99.005 Policy.~~

~~(Amended by Ordinance 187124, effective May 13, 2015.)~~

~~It is the policy of the City of Portland that employees performing certain categories of work under formal contracts for janitorial services, for security services, and for parking garage attendant services with the City of Portland be guaranteed a minimum fair wage. City bureaus and operating units have the discretion to implement this policy in a reasonable manner.~~

~~3.99.010 Covered Services and Agreements.~~

~~(Amended by Ordinance 187124, effective May 13, 2015.)~~

~~The Fair Wage Policy applies to formal contracts entered into by the City of Portland, in accordance with Portland City Code 5.33, for janitorial services, for security services, or for parking garage attendant services. No other agreement or contract entered into by the City of Portland shall be covered by this Chapter.~~

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

~~3.99.015 Compliance.~~

~~(Amended by Ordinance 187124, effective May 13, 2015.)~~

~~City of Portland bureaus or operating units entering into contracts for covered services shall include the minimum hourly wage rate established in PCC 3.99 in all procurement announcements and resulting contracts. Contractors' compliance with the minimum wage requirements shall be monitored through submission of monthly certified payroll, mandatory employee notification of minimum wage rates via on-site postings, designation of bureau staff responsible for compliance monitoring and complaint resolution, and other measures deemed appropriate by the City bureau or operating unit. Contracts entered into by the City for covered services shall also include a non-retaliation clause protecting workers who assert wage claims based on this Chapter.~~

~~3.99.020 Adjustments.~~

~~(Amended by Ordinances 187124 and 190405, effective June, 18 2021.)~~

~~State and Federal law sets the base minimum wage. Unless otherwise directed by Council, minimum wage shall be no less than \$15 per hour. The Office of Management and Finance shall provide City bureaus with a yearly minimum hourly wage rate for covered services which is anticipated to be adjusted annually by the change in the consumer price index identified for use by the City of Portland and provided by the City Economist or pursuant to the terms of a City collective bargaining agreement for such represented employees if it differs from the City Economist. The adjustment shall be effective for all contracts on July 1 of each year. In determining the adjustment amount, the Office of Management and Finance shall take into account the City's overall financial picture, and OMF shall not interpret this Code to require any increase which is inconsistent with the City's financial health and capabilities.~~

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

~~(Amended by Ordinance 187124, effective May 13, 2015.)~~

~~Contracts entered into by the City for covered services shall include in the agreement the minimum hourly wage rate at the time the contract becomes effective and at the~~

annual adjustment date of July 1. For agreements and contracts not subject to Section 3.99.010, the City shall not rely upon, nor reference, this Chapter 3.99 in those agreements.

~~Chapter 3.100 Equal Opportunity~~

- ~~— 3.100.005 City Policies Relating to Equal Employment Opportunity, Affirmative Action and Civil Rights.~~
- ~~— 3.100.010 Affirmative Action Program.~~
- ~~— 3.100.011 Definitions.~~
- ~~— 3.100.012 Policy.~~
- ~~— 3.100.013 Objectives.~~
- ~~— 3.100.014 Management Commitment.~~
- ~~— 3.100.015 Regulatory Committee.~~
- ~~— 3.100.016 Bureau EEO Advisory Committees.~~
- ~~— 3.100.017 Reports and Audits.~~
- ~~— 3.100.018 Complaints of Discrimination.~~
- ~~— 3.100.019 Sanction.~~
- ~~— 3.100.020 Rules and Regulations.~~
- ~~— 3.100.021 Identification of Handicapped.~~
- ~~— 3.100.022 Management Commitment.~~
- ~~— 3.100.023 Objectives.~~
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~~— 3.100.086 Minority/Female Purchasing Associations.~~

~~— 3.100.089 Rules and Regulations.~~

~~— 3.100.090 Metropolitan Human Relations Commission Review and Evaluation.~~

~~(Chapter replaced by Ordinance 144724, effective November 10, 1977.)~~

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

~~(Substituted by Ordinance 165383; amended by Ordinance 171993, effective February 11, 1998.)~~

- ~~1. The City of Portland has a compelling governmental interest in prohibiting discrimination in programs, activities, services, benefits and employment whether carried out by the City itself or through a contractor with whom the City arranges to carry out its programs and activities. In addition to provision found elsewhere in this Code, provisions relating to equal employment opportunity, affirmative action and civil rights are specifically to be found in Chapter 4.02 and Chapter 23.01. The City of Portland's policies and programs relating to affirmative action are contained in its annual Affirmative Action Plan. Individual City bureaus may have specific programs designed to further the broad goals of equal employment opportunity, affirmative action and civil rights. It is unlawful to discriminate on the basis of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation or source of income in programs, activities, services, benefits, and employment whether carried out by the City of Portland, directly or through a contractor or any other entity with whom the City of Portland arranges to carry out its programs and activities except as allowed by federal law, rules and regulations.~~

~~3.100.010 Affirmative Action Program.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.011 Definitions.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.012 Policy.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.013 Objectives.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.014 Management Commitment.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.015 Regulatory Committee.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.016 Bureau EEO Advisory Committees.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.017 Reports and Audits.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.018 Complaints of Discrimination.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.019 Sanction.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.020 Rules and Regulations.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.021 Identification of Handicapped.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.022 Management Commitment.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.023 Objectives.~~

~~(Repealed by Ordinance 165383, effective April 29, 1992.)~~

~~3.100.030 Contractor Equal Employment Opportunity Program.~~

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

~~3.100.031 Definitions.~~

~~(Repealed by Ordinance 171418, effective July 23, 1997.)~~

~~3.100.032 Contracts with the City.~~

~~(Repealed by Ordinance 171418, effective July 23, 1997.)~~

~~3.100.033 Franchises.~~

~~(Repealed by Ordinance 171418, effective July 23, 1997.)~~

~~3.100.034 Certification of Contractors.~~

~~(Repealed by Ordinance 171418, effective July 23, 1997.)~~

~~3.100.035 Rules and Regulations.~~

~~(Repealed by Ordinance 171418, effective July 23, 1997.)~~

~~3.100.036 Compliance by Contractors.~~

~~(Repealed by Ordinance 171418, effective July 23, 1997.)~~

~~3.100.037 Denial or Revocation of Certification.~~

~~(Repealed by Ordinance 171418, effective July 23, 1997.)~~

~~3.100.038 Compatibility with Other Rules.~~

~~(Repealed by Ordinance 171418, effective July 23, 1997.)~~

~~3.100.039 State of Emergency.~~

~~(Repealed by Ordinance 171418, effective July 23, 1997.)~~

~~3.100.040 Exemptions.~~

~~(Repealed by Ordinance 171418, effective July 23, 1997.)~~

~~3.100.041 Contracts with City.~~

~~(Added by Ordinance 171418, effective July 23, 1997)~~

- ~~1. **A. Equal Opportunity Employer.** An "Equal Employment Opportunity Employer" ("EEO Employer") is one who does not engage in the discrimination prohibited by Section 3.100.005 of this Code and who is certified by the Bureau of Purchases as an EEO Employer.~~
- ~~2. **B. Contracts with EEO Employers.** The City has a compelling governmental interest to ensure that it is neither an active nor passive participant in legally prohibited discrimination. Therefore, the City will award contracts only to EEO Employers and will require that any subcontract to such contract be awarded to an EEO Employer. Any person, vendor, contractor, or entity of any type must be certified as an EEO Employer in order to be eligible to be awarded any contract from the City, unless the amount of all their contracts with the City total less than \$2,500 in any single fiscal year or unless the contractor has been exempted from such requirements as determined by the Bureau of Purchases. As used in the Code provisions regarding EEO Employers, the term "contractor" shall include all persons, contractors, vendors and entities who are required to obtain certification. In addition, all persons, vendors or entities that wish to be subcontractors on City awarded contracts shall be certified as EEO Employers unless the total of their subcontracts is less than \$2,500 in any single fiscal year or unless the subcontractor has been exempted from such requirements as determined by the Bureau of Purchases.~~
- ~~3. **C. Contracts Voidable.** Any contract between the City and a contractor who is not EEO certified or exempt from EEO certification requirements is voidable at the option of the City, regardless of whether the contractor was EEO certified when the contract was awarded or executed. Similarly, a contract is voidable if the contractor subcontracts a portion of the work to a subcontractor or supplier that is not EEO certified or exempt from EEO certification requirements.~~

~~3.100.042 Certification of Contractors.~~

~~(Added by Ordinance 171418, effective July 23, 1997.)~~

- ~~1. The Bureau of Purchases is delegated the authority to adopt rules and regulations to establish criteria for certification, conditional certification, decertification, revocation, suspension and denial of EEO status to Contractors and Subcontractors, to administratively implement this program, to investigate complaints of prohibited discrimination, to conduct compliance reviews, and to establish rules of procedure it deems necessary in order to discharge its duties.~~

~~3.100.043 Information Required.~~

~~(Added by Ordinance 171418, effective July 23, 1997.)~~

- ~~1. Contractors and Subcontractors shall provide all information requested by the Bureau to assist it in performing its duties under Section 3.100.042 of this Code.~~

~~3.100.044 Compliance Review.~~

~~(Added by Ordinance 171418, effective July 23, 1997.)~~

- ~~1. If the Bureau of Purchases receives a complaint filed by any person or entity that alleges prohibited discrimination by a Contractor or Subcontractor, or when information comes into its possession indicating that a Contractor or Subcontractor may have engaged in prohibited discrimination, the Bureau may conduct a Compliance Review to determine whether the complaint or the information is correct. The purpose of the Compliance Review is to determine whether an EEO Certification should be revoked or suspended or whether a request for certification or recertification should be denied.~~

~~3.100.045 Denial, Suspension, Revocation~~

~~(Added by Ordinance 171418, effective July 23, 1997.)~~

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

~~3.100.050 Nondiscrimination in Contracting.~~

~~(Added by Ordinance 180077, effective May 19, 2006)~~

~~3.100.051 Policy regarding Benefits.~~

~~(Added by Ordinance 180077, effective May 19, 2006)~~

- ~~1. It is the City's intent, through its contracting practices outlined herein, to spend public money through its contracts to equalize, to the extent possible, the total benefits between similarly situated employees with spouses and employees with domestic partners.~~

~~3.100.052 Definitions.~~

~~(Added by Ordinance 180077, effective May 19, 2006)~~

- ~~1. As used in this Chapter unless the context requires otherwise:~~
- ~~2. A. "Bureau" means the Bureau of Purchases.~~
- ~~3. B. "Contract" means all formal solicitation contracts for Public Improvements and Construction Services authorized and executed pursuant to PCC Chapter 5.34, and all formal solicitation contracts for Goods and Services authorized and executed pursuant to PCC Chapter 5.33 and all formal solicitation contracts for Professional, Technical and Expert services (PTE) authorized and executed pursuant to PCC Chapter 5.68.~~
- ~~4. C. "Director" or "Purchasing Agent" means the Director of the Bureau of Purchases or that person to whom those duties have been properly delegated.~~
- ~~5. D. "Domestic Partner" means any person who is registered with his or her employer as a domestic partner, or, in the absence of an employer provided registry, is registered as a domestic partner with a governmental body pursuant to state or local law authorizing such registration and who is in fact a current domestic partner with the person with whom that person was registered. Any internal employer registry of domestic partnership must comply with criteria for domestic partnerships specified by rule by the Bureau.~~
- ~~6. E. "Employee benefits" means any plan, program or policy provided by an employer to its employees as part of the employer's total compensation package. This includes but is not limited to the following types of benefits: bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; pension and retirement benefits; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.~~

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

~~(Added by Ordinance 180077, effective May 19, 2006)~~

- ~~1. A. No contractor on a City contract shall discriminate by policy or practice in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse, subject to the following exceptions:~~

- ~~1. 1. In the event that the contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a particular benefit for the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of employee benefits if the contractor conditions providing such benefit upon the employee agreeing to pay the excess costs.~~
- ~~2. 2. The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular employee benefit to domestic partners, so long as the contractor provides the employee with a cash equivalent.~~
- ~~2. B. Other options for compliance allowed. Provided that a contractor does not discriminate in the provision of benefits between employees with spouses and employees with domestic partners, a contractor may:~~
 - ~~1. 1. Elect to provide benefits to individuals in addition to employees' spouses and employees' domestic partners;~~
 - ~~2. 2. Elect to provide benefits in a manner unrelated to spousal or domestic partner status; or~~
 - ~~3. 3. Provide benefits neither to employees' spouses nor to employees' domestic partners.~~
- ~~3. C. Requirements inapplicable under certain conditions. The Director may waive the requirements of this chapter where it is found not to be in the best interest of the City. Examples of situations that require waiving the requirements of this chapter include but are not limited to:~~
 - ~~1. 1. Award of a contract or amendment is necessary to respond to an emergency;~~
 - ~~2. 2. No compliant contractors are capable of providing goods or services that respond to the City's requirements;~~
 - ~~3. 3. The contractor is a public entity;~~
 - ~~4. 4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;~~
 - ~~5. 5. The City is purchasing through a cooperative or joint purchasing agreement;~~
- ~~4. D. Requests for waivers of the terms of this Chapter are to be submitted to the Bureau of Purchases in a manner prescribed by the Bureau. Decisions by the Bureau to issue or deny waivers are final.~~
- ~~5. E. The Director may reject an entity's bid or proposal, or terminate a contract, if the Director determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.~~

~~6. F. The City shall not execute a contract with a contractor unless such contractor has agreed not to discriminate in the provision of employee benefits as provided for in this chapter.~~

~~7. G. All contracts awarded by the City shall contain provisions developed by the Bureau of Purchases prohibiting discrimination in the provision of employee benefits, including provisions containing appropriate remedies for the breach thereof as prescribed by Section 3.100.054, except as exempted by this chapter or rule.~~

~~3.100.054 Limitations.~~

~~(Added by Ordinance 180077, effective May 19, 2006)~~

~~1. The requirements of this Chapter only shall apply to those portions of a contractor's operations that occur:~~

~~2. A. Within the City;~~

~~3. B. On real property outside of the City if the property is owned by the City or if the City has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the City; and~~

~~4. C. Elsewhere in the United States where work related to a City contract is being performed.~~

~~5. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or contractor.~~

~~3.100.055 Powers and duties of the Director.~~

~~(Added by Ordinance 180077, effective May 19, 2006)~~

~~1. The Director of the Bureau of Purchases shall have the power to:~~

~~2. A. Adopt rules and regulations, in accordance with this chapter and the Administrative Code of The City of Portland (PCC 3.02), establishing standards and procedures for effectively carrying out this chapter;~~

~~3. B. Examine contractor's benefit programs covered by this chapter;~~

~~4. C. Allow for remedial action after a finding of non-compliance, as specified by rule.~~

~~5. D. Determine and impose appropriate sanctions and/or liquidated damages for violation of this chapter by contractors including, but are not limited to:~~

~~1. 1. Disqualification of the contractor from bidding on or being awarded a City contract for a period of up to 3 years; and~~

~~2. 2. Contractual remedies, including, but not limited to, termination of the contract.~~

- ~~6. E. Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;~~
- ~~7. F. Perform such other duties as may be required by ordinance or which are necessary to implement the purposes of this chapter.~~

~~3.100.056 Severability of Provisions.~~

~~(Added by Ordinance 180077, effective May 19, 2006.)~~

- ~~1. If any part or provision of this Chapter, or application thereof to any person or circumstance, is held invalid, the remainder of this Chapter and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.~~

~~3.100.060 Grant Equal Opportunity Compliance Program.~~

~~3.100.061 Definitions.~~

~~(Amended by Ordinance 150738, effective December 13, 1980.)~~

- ~~1. As used in this Section:~~
- ~~2. A. "Equal Opportunity" or "EO" means the concepts and practice of nondiscrimination on the basis of race, religion, color, national origin, sex, age or handicap in employment, purchasing, contracting, or utilization of firms or individuals on the basis of demographics as may be prescribed by grants awarded to the City of Portland by other governmental agencies.~~

~~3.100.062 Purpose.~~

~~(Amended by Ordinance 150738, effective December 13, 1980.)~~

- ~~1. The purpose of the Grant Equal Opportunity Compliance Program is:~~
- ~~2. A. To provide a uniform and consistent review of all equal opportunity and labor standard requirements associated with grants from other governmental agencies to the City of Portland.~~
- ~~3. B. To establish guidelines, instructions, uniform reporting formats, related administrative support, and assistance necessary to comply with grant equal opportunity requirements.~~
- ~~4. C. To provide a single, initial contact for grantor agencies and others seeking information about, or contact with, grantee bureaus or offices on EO matters.~~

~~3.100.063 Responsibility.~~

~~(Amended by Ordinance 150738, effective December 13, 1980.)~~

- ~~1. Affected City agencies shall have responsibilities under this Section as follows:~~
- ~~2. A. Federal Grants Coordinator shall submit all grant applications to the Contract and Grants Compliance Division for determination of equal opportunity requirements. No grant application shall be submitted to the City Council unless the Contract and Grants Compliance Division has reviewed the applicable equal opportunity requirements and obligations.~~
- ~~3. Following the award of any grant, the Federal Grants Coordinator shall provide the Contract and Grants Compliance Division with copies of the grant and applicable related documents.~~
- ~~4. B. Contract and Grants Compliance Division shall serve as the point of contact for all communications relating to grant equal opportunity compliance, and shall review all grants as follows:~~
 - ~~1. 1. Pre-Application. Before any grant application is submitted to the grantor agency, the equal opportunity provisions shall be reviewed to determine compliance requirements. A report of such review shall be submitted to the Federal Grants Coordinator.~~
 - ~~2. 2. Post Award. Immediately after the award of any grant, the Contract and Grants Compliance Division shall advise the grantee bureau or office of applicable requirements and provide guidelines, instructions, forms, and assistance, as required to assist the bureau or office to implement compliance.~~
- ~~5. C. Grantee Bureaus or Offices. Shall be fully responsible for compliance with all equal opportunity requirements imposed by applicable grants. In the discharge of such responsibility, grantee bureaus or offices shall cooperate fully with the Contract and Grants Compliance Division including, but not limited to, accumulation of applicable data, preparation of suitable records, and submission of such records and forms as may be required.~~

~~3.100.064 Compliance Monitoring.~~

~~(Amended by Ordinance 150738, effective December 13, 1980.)~~

- ~~1. The Contract and Grants Compliance Division shall monitor the program at appropriate intervals to assure compliance with requirements. Where difficulties are noted, recommendations shall be made to the appropriate bureau, office supervisor or project manager.~~

~~3.100.065 Rules and Regulations.~~

~~(Amended by Ordinance 150738, effective December 13, 1980.)~~

- ~~1. The Contract and Grants Compliance Division shall establish and maintain suitable rules and regulations for administration of the Grant Equal Opportunity Compliance Program.~~

~~3.100.080 Minority/Female Purchasing Program.~~

~~(Amended by Ordinance 150738, effective December 13, 1980.)~~

~~3.100.081 Definitions.~~

~~(Amended by Ordinance 150738, effective December 13, 1980.)~~

- ~~1. As used in this Section:~~
- ~~2. **A. "Minority" or "minorities"** means Blacks, Hispanic Americans, Pacific Islanders, Asian Americans, American Indians, Aleuts and Eskimos.~~
- ~~3. **B. "Members of Other Groups"** (MOG) means members of other groups or other individuals than those specified in A above, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)). These MOGs shall also be eligible to participate in this program.~~
- ~~4. **C. "Minority business enterprise"** (MBE) means a business at least 50 percent of which is owned by minorities or, in the case of publicly owned business, at least 51 percent of the stock of which is owned by minorities and whose management and daily business operations are controlled by one or more such individuals.~~
- ~~5. **D. "Female business enterprise"** (FBE) means a business at least 50 percent of which is owned by females or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by females and whose management and daily business operations are controlled by one or more individuals.~~

~~3.100.082 Purpose.~~

~~(Amended by Ordinance 150738, effective December 13, 1980.)~~

- ~~1. The purpose of the Minority/Female Purchasing Program is to encourage and promote the sale of goods and/or services by minority and female business enterprises to the City of Portland. When such services are provided by federal funds encouraging or requiring MBE/FBE participation, the City shall take necessary action to comply with federal laws, regulations and contracting requirements.~~

~~3.100.083 Liaison Officer.~~

~~(Amended by Ordinance 150738, effective December 13, 1980.)~~

- ~~1. The designated Liaison Officer shall be the Purchasing Agent, who will be responsible for the day to day management of all elements of the program.~~

~~3.100.084 Minority/Female Business Enterprise List.~~

~~(Amended by Ordinances 150738 and 155018, effective August 25, 1983.)~~

- ~~1. The Contract and Grants Compliance Division of the Office of Fiscal Administration shall establish and maintain a current list of minority/female business enterprises, with indications of product and service areas. Such lists shall be consulted when requests for quotations for supply of goods and/or services are received.~~

~~3.100.085 Advertising.~~

~~(Amended by Ordinances 150738 and 155018, effective August 25, 1983.)~~

- ~~1. The Purchasing Agent shall advertise periodically in local publications (including the Daily Journal of Commerce, female and minority publications) that the City encourages bidding by MBEs and FBEs and that the City will assist such firms to understand and participate in formal bidding process.~~

~~3.100.086 Minority/Female Purchasing Associations.~~

~~(Amended by Ordinances 150738 and 155018, effective August 25, 1983.)~~

- ~~1. The Purchasing Grants Compliance Division shall develop and implement certification and review criteria for authorization of eligible MBE/FBE participants. Such certification shall be no less often than annually.~~

~~3.100.089 Rules and Regulations.~~

~~(Amended by Ordinances 150738 and 155018, effective August 25, 1983.)~~

- ~~1. The Purchasing Agent (Bureau of Financial Affairs) shall establish and maintain rules and regulations for administration of the Minority/Female Purchasing Program.~~

~~3.100.090 Metropolitan Human Relations Commission Review and Evaluation.~~

~~(Repealed by Ordinance 173369, effective May 12, 1999.)~~

Chapter 3.101 Property Tax Exemption for Low-Income Housing Held by Charitable Non-Profit Organizations

~~(Chapter added by Ordinance 157768, effective August 29, 1985.)~~

3.101.010 Definitions.

~~(Amended by Ordinances 167356, 182671, 185043 and 187660, effective April 6, 2016.)~~

As used in this Chapter:

A. “Low-income” means:

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

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

1. Which are either single or multi-family residential units intended for the exclusive occupancy by low-income persons during the tax year for which approval of the application has been granted or properties which are not residential units but which will become residential units through rehabilitation improvements or new construction to be occupied by low-income persons;
2. Which are owned, being purchased, or held under leasehold interest in the property which meet the standards of Subsections 3.101.030 B. 1.-2. by a charitable organization and nonprofit corporation for the purpose of occupancy by low-income persons as described in 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984, pursuant to- ORS 307.540 to 307.548; and
3. Which the owner or leaseholder has met all eligibility requirements and made all required agreements described in this Chapter.

3.101.020 Eligible Organizations.

~~(Amended by Ordinance 185043, effective December 7, 2011.)~~

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

3.101.030 Eligible Property.

~~(Amended by Ordinances 167356 and 185043, effective December 7, 2011.)~~

As used in this Chapter:

A. “Eligible property” as defined in Subsections 3.101.010 B. 1.-3. which meets all of the following criteria, pursuant to ORS 307.541, and other conditions of this Chapter ~~shall~~will be exempt from taxation:

1. The property is owned or being purchased by a corporation that is exempt from income taxes under 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984, pursuant to ORS 307.541(a);
2. Upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific, literary, or educational purposes or to the State of Oregon;
3. The property is occupied by low-income persons as defined by ORS 307.540(2) or held for future development for low-income housing pursuant to- ORS 307.541(1)(c)(B).
4. The property or portion of the property receiving the exemption is actually and exclusively used for the purposes described in 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984.
5. The exemption has been approved as provided in Section 3.101.040 and 3.101.050 of this Chapter.

B. For the purposes of this Chapter, pursuant to ORS 307.541(2), a corporation that has only a leasehold interest in property is deemed to be a purchaser of that property if:

1. The corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or
2. The rent payable by the corporation has been established to reflect the savings resulting from the exemption from taxation.

C. Pursuant to ORS 307.541(3), a partnership ~~shall~~will be treated the same as a corporation if the corporation is a general partner of the partnership and responsible for the day-to-day operation of the property that is the subject of the exemption.

3.101.040 Application Procedure.

~~(Amended by Ordinances 167356, 182671, 185043 and 187660, effective April 6, 2016.)~~

A. To qualify for the exemption the corporation ~~shall~~must file an application for exemption with the Portland Housing Bureau acting on behalf of the City of Portland for each assessment the year the corporation wants the exemption. The application

~~shall~~must be filed on or before March 1 of the assessment year for which the exemption is applied for, except that when the property designated is acquired after March 1 and before July 1, the claim for that year ~~shall~~must be filed within 30 days after the date of acquisition. The application ~~shall~~must include the following information:

1. The applicant's name, address, and telephone number;
2. The assessor's property account number for each site;
3. The number of units and the exempted amount of each property being applied for under this Chapter;
4. A description of the property for which the exemption is requested;
5. A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;
6. A description of how the tax exemption will benefit project residents; and
7. A description of how the benefits in the case of leasehold interest in the eligible property accrue to the non-profit and its resident tenants;
8. A certification of income levels of low-income occupants;
9. A declaration that the corporation has been granted an exemption from income taxes under 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984;
10. A description of the development of the property if the property is being held for future low-income housing development; and
11. Any other information required by state law or local law or otherwise which is reasonably necessary to effectuate the purposes of this Chapter at the time the application is submitted.

B. The application ~~shall~~must include the following statements:

1. That the applicant is aware of all requirements for property tax exemption imposed by this Chapter;
2. That the applicant's property qualified or, upon completion of the rehabilitation improvements and subsequent occupancy by low-income occupants, will qualify for exemption at the time of application approval or within 30 days of the March 1 application deadline;

3. That the applicant acknowledges responsibility for compliance with the Code of the City of Portland regardless of whether the applicant obtains the exemption provided by this Chapter.

4. The applicant ~~shall~~must furnish other information which is reasonably necessary to fulfill the objectives of this Chapter.

C. The applicant ~~shall~~must verify the information in the application, in accordance with Subsections 3.101.040 B. 1. through 3. above, by oath or affirmation.

D. Applicants for an exemption under this Chapter ~~shall~~must pay fees for an initial application and any renewals as set by the Portland Housing Bureau. The Portland Housing Bureau ~~shall~~will pay the County Assessor any reasonable cost incurred to process the exemption onto the tax rolls. In addition to paying the basic fee, the applicant may be required to pay other reasonable costs, which are incurred by the Portland Housing Bureau or the County Assessor in processing the application. The Portland Housing Bureau ~~shall~~will collect the additional payment, if any, and pay itself, the County Assessor, or any other City bureau an amount equal to the additional costs incurred.

3.101.050 Review of Application.

~~(Amended by Ordinances 167356, 182671, 185043 and 187660, effective April 6, 2016.)~~

A. Within 30 days after the March 1 deadline for the application and payment of the application fee, the Portland Housing Bureau ~~shall~~will approve or deny the application. The application ~~shall~~will be approved if the Portland Housing Bureau finds that the property is “eligible property” within the meaning of the paragraphs 1. through 3. of Subsection B. of Section 3.101.010 of this Chapter, and that the applicant has submitted the application and paid the fees pursuant to Section 3.101.040 of this Chapter.

B. If the application is approved, the Portland Housing Bureau ~~shall~~must send written notice of approval to the applicant.

C. The Portland Housing Bureau ~~shall~~must file a certified list of approved properties with the County Assessor on or before April 1.

D. If the application is denied, the Portland Housing Bureau ~~shall~~must state in writing the reasons for denial and send the notice to the applicant at ~~his or her~~their last known address within 10 days after the denial. The Portland Housing Bureau ~~shall~~will retain that portion of the application fee which is attributable to its own administrative costs and ~~shall~~will refund the balance to the applicant.

~~E. Upon denial by the Portland Housing Bureau, an applicant may appeal the denial to the City Council within 30 days after receipt of the notice of denial. Appeal from the decision of the City Council may be taken as provided by law.~~

F. The application ~~shall~~will be assigned an application and receipt number.

3.101.060 Annual Application Renewal.

~~(Amended by Ordinances 167356, 182671, 185043 and 187660, effective April 6, 2016.)~~

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

B. The annual application renewal fee ~~shall~~will be set by the Portland Housing Bureau.

3.101.070 Assessment Exemption.

~~(Amended by Ordinances 167356, 178286 and 185043, effective December 7, 2011.)~~

A. Property for which an application for a property tax exemption has been approved under the provisions of this Chapter ~~shall~~will be exempt from ad valorem taxation for 1 year beginning July 1 of the tax year immediately following approval of the exemption, or when, pursuant to ORS 307.330, the property would have gone on the tax rolls in the absence of the exemption provided for in this Chapter. The exemption provided in this Section ~~shall~~will be in addition to any other exemption provided by law.

B. Applications for property tax exemption under this Chapter ~~shall~~will apply to and may be approved for assessment years beginning on or after January 1, 1985, but no later than January 1, 2027.

C. The exemption as provided by this Chapter ~~shall~~will apply to the tax levy of all taxing districts in the City of Portland in which property certified for exemption is located as long as the City of Portland has achieved the approval from such taxing districts whose governing boards agree to the policy of exemption, equal to 51 percent or more of the total combined rate of taxation on the property certified for exemption.

3.101.080 Termination.

~~(Amended by Ordinances 167356, 182671 and 185043, effective December 7, 2011.)~~

A. If, after a certificate of qualification approving the exemption has been filed with the County Assessor, the Portland Housing Bureau finds that non-compliance has occurred or that any provision of this Chapter is not being complied with, the Portland Housing Bureau ~~shall~~must give notice in writing to the owner, mailed to the owner's last-known address and to every known lender, by mailing the notice to the last-known address of every known lender, of the proposed termination of the exemption. The notice ~~shall~~must state the reasons for the proposed termination of the exemption and require the owner to appear before ~~City~~ Council to show cause at

a specified time, not less than 20 days after mailing of the notice, why the exemption should not be terminated.

B. If the owner does not appear or if ~~he or she~~they appears and fails to show cause why the exemption should not be terminated, the Portland Housing Bureau ~~shall~~ must notify every known lender and ~~shall~~ must allow any lender not less than 30 days after the date the notice of the failure to appear and show cause is mailed to cure any noncompliance or to provide adequate assurance that all noncompliance ~~shall~~ will be remedied.

C. If the owner fails to appear and show cause why the exemption should not be terminated and the lender fails to cure or give adequate assurance of the cure of any noncompliance, ~~City~~ Council ~~shall~~ will adopt an ordinance or resolution stating its findings that terminate the exemption. A copy of the ordinance or resolution ~~shall~~ must be filed with the County Assessor and a copy sent to the owner at the owner's last-known address and to the lender at the last-known address of the lender, within 10 days after its adoption.

D. Upon final adjudication, the county officials having possession of the assessment and tax rolls ~~shall~~ will correct the rolls in the manner provided for omitted property under ORS 311.216 to 311.232, to provide for the assessment and taxation of any value not included in the valuation of the property during the period of exemption prior to termination by ~~City~~ Council or by a court, in accordance with the findings of ~~City~~ Council or the court as the assessment year in which the exemption is to terminate. The County Assessor ~~shall~~ will make the valuation of the property necessary to permit correction of the rolls, and the owner may appeal the valuation in the manner provided under ORS 311.216 to 311.232. Where there has been a failure to comply, as provided in Subsection A of this Section, the property ~~shall~~ will be revalued beginning July 1 of the calendar year in which the non-compliance first occurred. Any additional taxes becoming due ~~shall~~ will be payable without interest if paid in the period prior to the 16th day of the months next following the month of correction. If not paid within such period, the additional taxes ~~shall~~ will thereafter be considered delinquent on the date they would normally have become delinquent if the time extended on the roll or rolls in the year or years for which the correction was made.

3.101.090 Implementation.

~~(Amended by Ordinances 167356, 182671, 185043 and 187660, effective April 6, 2016.)~~

The Portland Housing Bureau ~~shall~~ will establish procedures and prepare forms for immediate implementation and administration of this Chapter in order to accept applications prior to the March 1 filing deadline imposed by ORS 307.545.

Chapter 3.102 Property Tax Exemption for New

Construction of Single-Unit Housing Held by Charitable Non-Profit Organizations

3.102.010 Purpose.

3.102.020 Definitions.

3.102.030 Benefit of the Exemption; Annual Maximum Number of Exemptions.

3.102.040 Exemption Requirements.

3.102.050 Application Review and Approval.

3.102.060 Compliance.

~~3.102.070 Designation of Homebuyer Opportunity Areas.~~

3.102.07~~80~~ Termination of the Exemption.

3.102.08~~90~~ Implementation.

~~(Chapter replaced by Ordinance 185477, effective August 1, 2012.)~~

3.102.010 Purpose.

A. The City of Portland adopts the provisions of Oregon Revised Statutes 307.651 through 307.687, and administers a property tax exemption program for new construction of single-unit housing authorized under those provisions.

B. In addition to meeting the legislative goals set forth in ORS 307.654, the program also seeks to accomplish the following additional core goals:

- 1.** Stimulate the construction of affordable housing and other public benefits where such housing or benefits may not otherwise be made available.
- 2.** Leverage market activities to advance housing and economic prosperity goals by aligning those activities with the goals of the Portland Plan and the Portland Housing Bureau's Strategic Plan.
- 3.** Provide transparent and accountable stewardship of public investments.

3.102.020 Definitions.

~~(Amended by Ordinances 186700 and 190926, effective July 13, 2022.)~~

As used in this Chapter:

A. “Administrative Rules” means the Homebuyer Opportunity Limited Tax Exemption program administrative rules which set forth the program requirements, processes and procedures.

B. “Applicant” means the individual who or entity which owns the property and is submitting an application for the tax exemption program and is legally bound to the terms and conditions of an approved tax exemption, including but not limited to any compliance requirements under this Chapter.

C. “Single-unit housing” has the meaning set forth in ORS 307.651(3).

3.102.030 Benefit of the Exemption; Annual Maximum Number of Exemptions.

A. Single-unit housing that qualifies for an exemption under this Chapter is exempt from property taxes to the extent provided under ORS 307.664 and the Administrative Rules.

B. However, the Portland Housing Bureau may, upon action by City Council on an annual basis, determine a limit on the number of applications accepted under this Chapter.

3.102.040 Exemption Requirements.

~~(Amended by Ordinances 186700, 190926 and 191595, effective January 17, 2024.)~~

In order to be considered for an exemption under this Chapter, an applicant must verify by oath or affirmation in the application that the proposed construction will meet the following requirements and public benefits upon completion of construction:

A. Property

- 1.** Single-unit housing must be located within the City of Portland;
- 2.** Each qualified dwelling unit in the single-unit housing must have a market value at the time of completion of no more than the amount determined annually by Portland Housing Bureau according to ORS 307.651(3) and 307.661;
- 3.** Construction of the single-unit housing must be completed according to ORS 307.651(3)(b), except as provided in ORS 307.677;
- 4.** Each qualified dwelling unit must have at least three bedrooms unless built within an approved transit-oriented area as determined by the Portland Bureau of Planning and Sustainability and included on the map defining eligibility areas where two bedroom homes are allowed, which is available as an appendix to the Administrative Rules; and

5. The single-unit housing must comply with all other planning and zoning requirements under the Code of the City of Portland.

B. Affordability

1. Each dwelling unit of the single-unit housing must be sold to a household with an annual gross household income not greater than one hundred percent of the area median income for a family of four as determined annually for the Portland Metropolitan Area by the United States Department of Housing and Urban Development, which income may be adjusted upward for households with more than four persons.

2. For applications received by PHB prior to March 1, 2024, each dwelling unit of the single-unit housing must be sold to a household with an annual gross household income not greater than one hundred twenty percent of the area median income for a family of four as determined annually for the Portland Metropolitan Area by the United States Department of Housing and Urban Development, which income may be adjusted upward for households with more than four persons so long as the single-unit housing sells to a qualified homebuyer prior to July 1, 2026.

3. For the purposes of this program, household income is the annual gross income of the titleholder who will occupy the dwelling unit.

C. Owner-Occupancy

1. Once sold to the initial buyer, the dwelling unit ~~shall~~must remain owner-occupied as the principal residence of the titleholder receiving the tax exemption during the tax exemption period;

2. Hardship exception to the owner-occupancy requirement may be granted by the Portland Housing Bureau in accordance with its policies. Such hardship exceptions may include, but are not limited to, the following circumstances:

- a. Active military duty outside of the area;
- b. Temporary relocation to care for an ill or dying family member; or
- c. Temporary relocation caused by an employer; and

3. The single-unit housing may not be rented at any time during the exemption period.

D. Equity

1. Applicant must acknowledge familiarity with Portland Housing Bureau's Minority, Women, and Emerging Small Businesses (MWESB) guidelines and contracting opportunity goals, and report on past contracting relationships.

2. Applicant must acknowledge awareness and understanding of Portland Housing Bureau's Guiding Principles on Equity and Social Justice and Strategic Priority of Helping Portlanders from Communities of Color buy a home and agree to partner with Portland Housing Bureau to ensure that communities of color are aware of properties for sale with exemptions.

E. Green Building. The new construction must be built to meet healthy and resource efficient environmental building standards.

F. Application Fee. The applicant must pay an application fee determined by the Portland Housing Bureau as described in ORS 307.674 (5).

3.102.050 Application Review and Approval.

~~(Amended by Ordinance 190926, effective July 13, 2022.)~~

A. The Portland Housing Bureau will review and approve or deny applications consistent with ORS 307.667 through 307.674.

B. Applicants must apply for the tax exemption prior to issuance of the building permit for the single-unit housing.

C. The issuance of final building permits shall will indicate compliance with the Code of the City of Portland and shall will be sufficient to meet the design standards as described in ORS 307.651(3)(a)

D. Any exemption under this Chapter must be approved by City Council by resolution, and Portland Housing Bureau will deliver a list of the approved applications to Multnomah County within the timeframe set forth in ORS 307.674.

3.102.060 Compliance.

~~(Amended by Ordinances 186700 and 188932, effective June 8, 2018.)~~

A. Upon approval, Portland Housing Bureau will record a notice on title of the property requiring Portland Housing Bureau verification of homebuyer eligibility and owner-occupancy qualification prior to the sale of each property to an initial homebuyer, as well as to subsequent purchasers throughout the duration of the exemption for any HOLTE applications approved after July 1, 2018.

B. Single-unit housing which sells to homebuyers who do not meet the affordability or owner occupancy qualifications, will have the tax exemption removed as of the next tax year.

C. Single-unit housing not meeting the exemption requirements by selling over the established sale price at initial sale will have the tax exemption terminated according to Section 3.102.080 and require the applicant to repay any exempted taxes consistent with ORS 307.687.

~~3.102.070 Designation of Homebuyer Opportunity Areas.~~

~~(Repealed by Ordinance 186700, effective July 1, 2014.)~~

3.102.0780 Termination of the Exemption.

If the Portland Housing Bureau determines that the single-unit housing fails to meet any of the provisions of ORS 307.651 to 307.687 or this Chapter, the Portland Housing Bureau will terminate the exemption consistent with ORS 307.681 through 307.687.

3.102.0890 Implementation.

~~(Amended by Ordinance 190926, effective July 13, 2022.)~~

The ~~Director of PHB or a designee~~City Administrator may enter into covenants and agreements, prepare forms, and adopt, amend, and repeal Administrative Rules ~~which~~ that establish procedures, policies, program requirements, compliance monitoring standards, and penalties, for implementation, administration, and enforcement of a program consistent with the provisions of this Section. The ~~Director of PHB, or a designee, City Administrator has authority to~~may make changes to the Administrative Rules as is necessary to meet current City housing program requirements. PHB Administrative Rules will set forth clear and objective criteria to establish minimum standards for affordable units restricted under the Homebuyer Opportunity Limited Tax Exemption program.

Chapter 3.103 Property Tax Exemption for Multiple-Unit Housing Development

3.103.010 Purpose.

3.103.020 Definitions.

3.103.030 Benefit of the Exemption; Annual Maximum Exemption Amount.

3.103.040 Program Requirements.

3.103.050 Application Review.

3.103.060 Application Approval.

3.103.070 Rental Building Compliance.

3.103.080 For-Sale Unit Compliance.

~~3.103.090 Extension of the Exemption for Low Income Housing Projects.~~

3.103.09400 Termination of the Exemption.

3.103.1040 Implementation.

~~(Chapter replaced by Ordinance 187283, effective August 5, 2015.)~~

3.103.010 Purpose.

~~(Amended by Ordinance 191610, effective March 1, 2024.)~~

A. The City of Portland, acting by and through the Portland Housing Bureau, adopts the provisions of Oregon Revised Statutes 307.600 through 307.637, and administers a property tax exemption program for multiple-unit housing development authorized under those provisions referred to as the Multiple-Unit Limited Tax Exemption (“MULTE”) program.

B. In addition to meeting the legislative goals set forth in ORS 307.600, the program also seeks to accomplish the following additional core goals:

1. Support the production of units affordable to households earning 80 percent or less of the median family income (“MFI”), with an emphasis on households earning 60 percent MFI or less;
2. Structure the MULTE program to support the variety of Inclusionary Housing program compliance options, with an emphasis on mixed-income buildings in high opportunity areas;
3. Provide transparent and accountable stewardship of public investments.

3.103.020 Definitions.

~~(Amended by Ordinances 188163 and 191610, effective March 1, 2024.)~~

As used in this Chapter:

A. “Administrative rules” means the tax exemption program administrative rules which set forth the program requirements, processes, and procedures, and are filed as Portland Policy Documents.

B. “Applicant” means the individual or entity who is either the owner or a representative of the owner who is submitting an application for the tax exemption program.

C. “Building” means a structure of multiple-unit housing that qualifies to receive the MULTE.

D. “Compliance period” means:

1. Rental buildings: the 99-year time period during which the regulatory agreement applies to the building receiving the MULTE. The compliance period begins at the date that ~~the Portland Bureau of Development Services~~[Permitting & Development](#) issues the final certificate of occupancy for the building.

2. For-sale buildings: The 99-year time period during which the regulatory agreement applies to each unit with income restrictions. The compliance period begins upon the initial qualified sale from the owner to a homebuyer.

E. “Inclusionary housing program” means the inclusionary housing requirements established in PCC Section 30.01.120, Chapter 33.245, and the related administrative rules.

F. “Regulatory agreement” means a low-income housing assistance contract recorded between the owner and the Portland Housing Bureau stating the approval and compliance criteria of the MULTE program.

G. “Multiple-unit housing” has the meaning set forth in ORS 307.603(5).

H. “Neighborhood analysis areas” means individual and or multiple census tracts within a neighborhood, as identified in administrative rule by ~~PHB~~[the City Administrator](#).

I. “Owner” means the individual or entity holding title to the building and is legally bound to the terms and conditions of an approved MULTE, including but not limited to any regulatory agreement and any compliance requirements under this Chapter.

3.103.030 Benefit of the Exemption; Annual Maximum Exemption Amount.

~~(Amended by Ordinance 191610, effective March 1, 2024.)~~

A. A building that qualifies for a property tax exemption under this Chapter is exempt from property taxes to the extent provided under ORS 307.612, PCC Section 30.01.120, and the Inclusionary Housing program and MULTE administrative rules.

1. Rental buildings

a. If the building is located within the Central City Plan District, as designated in Chapter 33.510, the property tax exemption applies to all residential units;

b. If the building is located outside the Central City Plan District but within an eligible Neighborhood Analysis Area, as identified in administrative rule by ~~PHB~~[the City Administrator](#), and when restricting the units at 60 percent MFI, the property tax exemption applies to all residential units; or

c. If the building is located outside the Central City Plan District and outside a neighborhood analysis area, as identified in administrative rule by ~~PHB~~[the](#)

City Administrator, the tax exemption applies only to the income restricted units.

2. For-sale buildings. The property tax exemption applies only to the income restricted units, as identified in the applicable regulatory agreement.

B. However, the maximum amount of estimated foregone tax revenue provided as a benefit of the exemption under this Chapter may not exceed the amount approved by Council. As of March 1, 2024, the Foregone Revenue Cap is temporarily suspended until December 31, 2029. On January 1, 2030, the rolling Foregone Revenue Cap will be automatically reinstated at the amount approved by Council.

3.103.040 Program Requirements.

~~(Amended by Ordinances 188163, 189302, 190145 and 191610, effective March 1, 2024.)~~

In order to be considered for a property tax exemption under this Chapter, an applicant must verify by oath or affirmation in the application that the building meets the following program requirements as further described in the administrative rules:

A. Financial need for the exemption

- 1.** Rental building. The building would not include low to moderate-income units because it would not be financially feasible without the benefit provided by the property tax exemption.
- 2.** For-sale building. The units receiving the property tax exemption must be sold to buyers meeting the affordability requirements contained in this Chapter.

B. Property eligibility

- 1.** Buildings must be located within the taxing jurisdictions of the City of Portland and Multnomah County.
- 2.** Buildings must conform to City of Portland's zoning and density requirements.
- 3.** Buildings must include 20 or more units.

C. Affordability

- 1.** For rental buildings, during the compliance period, a minimum of 20 percent of the number of units or bedrooms must be affordable to households earning 80 percent or less of the area median family income, or a minimum of 10 percent of the number of units or bedrooms must be affordable to households earning 60 percent or less of

the area median family income, as approved through PCC Section 30.01.120. The units meeting the affordability requirements must match the unit mix in the building as a whole in terms of number of bedrooms.

2. For buildings containing for-sale units, only those units meeting the following criteria benefit from the property tax exemption:

a. At initial sale, each unit receiving the property tax exemption must sell for no more than the maximum price established annually under Subsection 3.102.040 A.2.:

b. At initial sale and for the duration of the property tax exemption, each unit receiving the property tax exemption must sell to a homebuyer who income qualifies and occupies the unit as established under Subsection 3.102.040 B.; and

c. During the term of the property tax exemption, the unit must be continuously occupied by the homebuyer as established under Subsection 3.102.040 C.

D. Accessibility. At least 5 percent of the income restricted units in the building must be built to be Type A as defined in the Oregon Structural Specialty Code.

3.103.050 Application Review.

~~(Amended by Ordinance 191610, effective March 1, 2024.)~~

A. The Portland Housing Bureau will review and approve or deny applications consistent with ORS 307.621.

B. Applications for tax exemption must be submitted to the Portland Housing Bureau and approved prior to issuance of the building's building permit.

C. Applications must include an application processing fee, to be established annually by the Portland Housing Bureau, including the fee to be paid to Multnomah County.

3.103.060 Application Approval.

~~(Amended by Ordinances 188163 and 191610, effective March 1, 2024.)~~

A. Applications will be considered based on the Inclusionary Housing Program requirements as per PCC Section 30.01.120, the requirements in this Chapter, and any applicable administrative rules.

B. Portland Housing Bureau will review complete applications, approve or deny complete applications, and deliver a listing of the approved applications to Multnomah County within the timeframe set forth in ORS 307.621.

C. If construction of an approved building is not completed or an application for the MULTE program is not received within the timeframe described in ORS 307.637, Portland Housing Bureau may extend the deadline consistent with ORS 307.634.

3.103.070 Rental Building Compliance.

~~(Amended by Ordinances 188163 and 191610, effective March 1, 2024.)~~

A. The owner of a rental building approved for the MULTE program will be required to sign a regulatory agreement to be recorded on the title to the property.

B. During the compliance period, the owner or a representative must submit annual documentation of tenant income and rents for the income restricted units in the building to the Portland Housing Bureau.

3.103.080 For-Sale Unit Compliance.

~~(Amended by Ordinance 191610, effective March 1, 2024.)~~

A. Upon approval, Portland Housing Bureau will record a notice on title of the building requiring Portland Housing Bureau verification of homebuyer eligibility and owner-occupancy qualification prior to the sale of each for-sale unit to an initial homebuyer, as well as for any subsequent homebuyers throughout the duration of the compliance period.

B. For-sale units which sell to homebuyers who do not meet the affordability or owner occupancy qualifications will have the tax exemption removed as of the next tax year.

C. For-sale units which sell over the established sale price at initial sale will have the tax exemption terminated according to Section 3.103.100 and require the owner to repay any exempted taxes consistent with ORS 307.631.

3.103.090 Extension of the Exemption for Low Income Housing Projects.

~~(Repealed by Ordinance 188163, effective February 1, 2017.)~~

3.103.09400 Termination of the Exemption.

~~(Amended by Ordinance 191610, effective March 1, 2024.)~~

If the Portland Housing Bureau determines that the building fails to meet any of the provisions of ORS 307.600 to 307.637 or this Chapter, the Portland Housing Bureau will terminate the exemption consistent with ORS 307.627.

3.103.1040 Implementation.

~~(Amended by Ordinance 191610, effective March 1, 2024.)~~

The ~~Director of Portland Housing Bureau, or a designee,~~City Administrator may enter into covenants and agreements, establish and charge administrative fees, prepare forms, and adopt, amend, and repeal administrative rules which establish procedures, policies, program requirements, compliance monitoring standards, and penalties for the implementation, administration, and enforcement of a program consistent with the provisions of this Chapter. The ~~Director of Portland Housing Bureau, or a designee, has authority to~~City Administrator may make changes to the administrative rules as ~~are~~is necessary to meet current City housing program requirements. The administrative rules will set forth clear and objective criteria to establish minimum standards for affordable units restricted under the MULTE program.

Chapter 3.106 Exposition-Recreation Commission

~~3.106.010 Commission Action.~~

~~3.106.020 Filing Copies of Resolutions with City Auditor.~~

~~3.106.030 Council Review.~~

~~3.106.040 Exposition—Recreation Commission Action Not Subject to Council Review.~~

~~3.106.050 Council Initiation of Exposition—Recreation Commission Action.~~

~~3.106.060 Amendment, Repeal or Alterations of Resolutions by Council.~~

~~3.106.070 Special Services Personnel as Special Police.~~

~~(Chapter added by Ordinance 143806, effective June 15, 1977.)~~

~~**3.106.010 Commission Action.**~~

~~All action by the Exposition—Recreation Commission shall be by resolution adopted in accordance with the Commission's bylaws.~~

~~**3.106.020 Filing Copies of Resolutions with City Auditor.**~~

~~Within 5 days after the passage of any resolution, the Exposition—Recreation Commission shall file a copy of the resolution with the City Auditor, who shall maintain a special record of the Exposition—Recreation Commission's resolutions which shall be accessible to the public under like terms as ordinances of the City of Portland. Except as provided in Section 3.106.040, no resolution of the Exposition—Recreation Commission~~

shall become effective until 5:00 p.m. on the 10th day following the filing of a copy thereof with the City Auditor.

~~3.106.030 Council Review.~~

~~Except as provided in Section 3.106.040, resolutions of the Commission shall not become effective, if, within 10 days after the filing by the Exposition – Recreation Commission of a copy of a resolution with the City Auditor, a member of the City Council files a request with the Auditor for City Council review of the Commission action. Upon receipt of a request for City Council review of Commission action, the City Auditor shall forthwith notify the General Manager of the Exposition – Recreation Commission of the request for review and shall deliver to him a copy of the request for review. The Auditor shall place the resolution on the Council agenda for Council review at the next regular Council meeting. In placing the resolution on the Council calendar, the Auditor shall act consistently with the regular filing deadline for Council calendar items established by this Code; provided, the Council may review any Exposition – Recreation Commission resolution as a four-fifths item, or under suspension of Council rules. At the time of requesting Council review of Exposition – Recreation Commission action, the Council member shall state the reason such review is necessary and what action the Council should take on the matters.~~

~~3.106.040 Exposition – Recreation Commission Action Not Subject to Council Review.~~

~~(Amended by Ordinance 170667, effective October 23, 1997.)~~

~~Resolutions of the Exposition – Recreation Commission which pertain solely to the following matters shall be effective upon adoption or at such other time as specified by the Commission.~~

~~A. Scheduling the use of the Exposition – Recreation Commission's buildings and facilities.~~

~~B. Entering into agreements for the use of the Exposition – Recreation Commission's buildings and facilities, including all of the terms and conditions of such agreements, provided such agreements do not transfer operation, management or control of the Memorial Coliseum.~~

~~C. Personnel policy or matters of employment, dismissal or disciplining of employees.~~

~~D. Purchasing supplies, consumables, and services and equipment, in accordance with a budget approved by City Council and in accordance with City Council purchasing procedures.~~

~~3.106.050 Council Initiation of Exposition – Recreation Commission Action.~~

~~The Council may, by regularly adopted ordinance, take action on behalf of the Commission. A Council member introducing an ordinance pertaining to the Exposition –~~

~~Recreation Commission on the Council calendar shall, at the time of filing the proposed ordinance with the City Auditor, have a copy of the ordinance delivered to the General Manager of the Exposition—Recreation Commission.~~

~~3.106.060 Amendment, Repeal or Alterations of Resolutions by Council.~~

~~A. Contracts and agreements entered into by the Exposition—Recreation Commission or on behalf of the Commission by employees or agents, within the scope of their authority, shall be binding and effective from the times designated in sections 3.106.030 or 3.106.040, whichever is applicable.~~

~~B. The Council may, by regularly adopted ordinance, repeal, amend or alter any resolution adopted by the Exposition—Recreation Commission. Any such repeal, amendment or alteration may be made retroactive or prospective in effect but shall not be construed to invalidate any contract or agreements made in accordance with Subsection A of this Section.~~

~~3.106.070 Special Services Personnel as Special Police.~~

~~(Repealed by Ordinance 185569, effective September 28, 2012.)~~

Chapter 3.107 Water Quality Advisory Committee

~~(Chapter added by Ordinance 161853, effective May 27, 1989.)~~

3.107.010 Created - Appointment.

~~(Amended by Ordinance 168939, effective June 14, 1995.)~~

There hereby is created the Water Quality Advisory Committee. The Committee ~~shall~~ consists of nine members, appointed by the ~~Commissioner In Charge of the Bureau of Water Works~~Mayor and confirmed by the Council. Appointments ~~shall beare~~ for terms of 3 years except that 4 of the initial appointments ~~shall beare~~ for terms of 2 years. When a vacancy occurs, the ~~Commissioner In Charge shall~~Mayor will appoint and the Council ~~shall will~~ confirm a member to fill a new 3-year term. The ~~Commissioner In Charge of the Bureau of Water Works~~Mayor may remove a member from the Committee at any time, subject to approval by the Council. The ~~Commissioner In Charge of the Bureau of Water Works~~shallMayor will appoint members to the Committee with expertise or association in areas such as water quality, water treatment, public health policy, the environmental community, civic and business organizations, major industrial or commercial users, neighborhood associations and the public at large of which at least 3 members ~~shall will~~ have relevant technical expertise. Committee members may serve a maximum of two 3-year terms, with the 4 appointees serving the initial terms of 2 years to serve a total maximum of 5 years. Within the maximum service limit of 6 years the Council may extend, for a period of less than 3 years, the terms of committee members who were appointed to serve or who have served the balance of a retiring committee member's term. All members ~~shall~~ serve without compensation from the City.

3.107.020 Duties.

The Committee ~~shall act~~s in an advisory capacity to the City Council through the ~~Commissioner In Charge of the Bureau of Water Works~~City Administrator as follows:

- A. The Committee ~~shall have~~has the authority to offer policy advice to the Council and the Bureau of Water Works on issues such as management of the Bull Run Watershed, protection of groundwater quality, and other related water quality issues.
- B. The Committee ~~shall have~~has the authority to issue periodic reports to the Council and the Bureau of Water Works.
- C. The Committee ~~shall have~~has the authority to inform the public at large and take public testimony before offering policy advice to the Council and the Bureau of Water Works.

3.107.030 Meetings.

The Committee ~~shall have~~has the authority to conduct public meetings to gather input; the Committee ~~shall will~~ provide for notification no less than 5 days prior to the meeting to the general public.

3.107.040 Chairperson.

A chairperson ~~shall will~~ be elected annually from among the Committee members by a majority vote of a quorum. The Chairperson ~~shall will~~ serve for a period of 1 year. A vacancy in the Chairperson's position ~~shall will~~ be filled from among Committee members by majority vote of a quorum as soon as practical after the vacancy occurs.

3.107.050 Rules - Quorum.

The Committee ~~shall will~~ establish its own rules and provide procedures for consideration or action on all matters before the Committee. Such rules and procedures may be adopted and amended only upon an affirmative vote of five or more Committee members. Election of officers and regular business ~~shall will~~ be passed upon by the majority of a quorum. Not less than five members ~~shall will~~ constitute a quorum. Each member ~~shall will~~ be entitled to one vote. Provisions ~~shall will~~ be made for public participation in Committee meetings.

3.107.060 Staff.

The Committee ~~shall will~~ be staffed by personnel from the Bureau of Water Works and such additional staff or consultants as may be deemed necessary by the City ~~Council~~Administrator for the committee to fulfill its responsibilities.

Chapter 3.110 Bureau of Hydroelectric Power

~~(Chapter added by Ordinance 147822, effective July 9, 1979.)~~

3.110.010 Creation and Function.

~~(Amended by Ordinance 161850, effective May 27, 1989.)~~

There is hereby established a Bureau of Hydroelectric Power. The Bureau shall will be administered by a Bureau Manager and shall will have such other employees as the Council City Administrator may provide and for which the Council may appropriate funding. The Bureau shall will supervise the construction and administer the operation of hydroelectric generating facilities owned by the City. It shall will perform the duties and responsibilities required by any Federal Energy Regulatory Commission license and any agreements for the disposition of energy. The Bureau of Hydroelectric Power shall will report to the Administrator Director of the Bureau of Water Works.

3.110.020 Jurisdiction.

The Bureau shall will supervise the construction and administer the operation of the City owned hydroelectric power generating facilities.

Chapter 3.114 Office for Community Technology

3.114.010 Creation.

~~There is hereby established an Office for Community Technology. The Office shall be supervised by a manager who shall report to the Director of the Revenue Division, as provided under Subsection 3.15.040 E., or the Director's designee. As used in this Chapter and elsewhere in the City Code when referring to the Office for Community Technology, the term "Director" shall mean the Director of the Revenue Division or the Director's designee. The Office shall have such other employees as the Council may provide.~~

3.114.020 Functions.

- ~~A. The Office shall be responsible for coordinating Citywide broadband planning, communications policy advocacy, technology grants and related consumer protection activities.~~
- ~~B. The Office shall be responsible for supervising and coordinating all franchising processes engaged in by the City, for monitoring the performance of all franchisees for franchise compliance and for performing all other necessary work relating to franchises in the City.~~
- ~~C. The Office shall be responsible for promoting the orderly development of City owned or City-partnered broadband and cable communication systems, for providing staff support needed by the Mt. Hood Cable Regulatory Commission and for performing all other necessary work related to broadband planning, communications policy advocacy, related technology grants and cable communications in the City.~~
- ~~D. The Office shall be responsible for overseeing franchise and utility audits and revenues in coordination with the City Auditor's Office, the Office of Management and Finance and other City agencies and bureaus.~~

3.114.030 Jurisdiction.

~~A. The Office shall have jurisdiction over all franchisees and utility licensees. The Office shall have jurisdiction over all public or private utilities or other entities seeking similar rights to use City rights-of-way.~~

~~B. The Office shall have jurisdiction over all cable communications and broadband policy matters affecting the City of Portland.~~

~~3.114.040 Policy.~~

~~In order to establish and ensure a stable, predictable basis for long-term relations, it is the policy of the City of Portland that public or private utilities and other entities seeking similar rights to utilize City rights-of-way should be subject to franchise agreements with the City.~~

~~3.114.050 Administration.~~

~~A. In exercising the Office's jurisdiction under Subsection 3.114.030 A. over the use of City rights-of-way by franchisees, licensees and permittees, the Director may adopt procedures, forms, written policies, and rules to ensure orderly administration.~~

~~1. Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will notify the public and affected franchisees, licensees, and permittees under the jurisdiction of the Office. Such notice, which may be provided by mail or electronic means, must be distributed not less than ten or more than thirty days before the hearing. The notice must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.~~

~~2. At the public hearing, the Director will receive oral and written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review will be conducted, but no additional public notice is required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Office. Copies of all current rules will be posted on the Office's website and made available to the public upon request.~~

~~3. Notwithstanding Subsections 3.114.050 A.1. and 2., the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not longer than 180 days.~~

Chapter 3.115 Mt. Hood Cable Regulatory Commission

(Note: Alternate Language to be added that is effective on January 1, 2025)

3.115.010 Definitions.

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

A. "Agreement" means the Intergovernmental Agreement creating the Mt. Hood Cable Regulatory Commission among and between the various Jurisdictions, dated December 24, 1992, including later amendments approved by the City Council.

B. "Commission" means the Mt. Hood Cable Regulatory Commission.

C. "Franchise" means an ordinance approved by the City Council authorizing use of the City's public right-of-way for operation of a cable communications system.

D. "Grantee" means any person authorized by a franchise agreement [or Chapter 12.15](#) to construct, operate and maintain a cable communications system within the City of Portland.

3.115.020 Cable Regulatory Commission.

A. The City is a party to the Intergovernmental Agreement dated December 24, 1992, as modified by subsequent amendments, creating the Mt. Hood Cable Regulatory Commission. The Intergovernmental Agreement establishes the responsibilities and powers of the Commission, as delegated by the various participating jurisdictions. The City Council approved the City of Portland's participation in the MHCRC by Ordinance No. 166168, enacted on January 20, 1993.

B. As provided in the Agreement, the City is represented by three members on the Commission, appointed by the ~~Commissioner in Charge of the Office for Community Technology~~ Mayor and confirmed by the Council. Appointments are for staggered terms of 3 years. When an interim vacancy occurs, the ~~Commissioner in Charge~~ Mayor appoints, and the Council confirms, a member to fill the balance of the unexpired term. All members representing the City must be residents of the City. The ~~Commissioner in Charge~~ Mayor ~~shall~~will appoint members to the Commission so as to provide for an appropriate level of expertise taking into account the powers and duties of the Commission and in making appointments ~~shall~~will take into consideration the desirability of diverse representation, including without limitation, of racial and ethnic minorities, gender, different geographic areas, and different socioeconomic groups. All members ~~shall~~will serve without compensation from the City or from any grantee. No member may have an ownership interest in any grantee. The ~~Commissioner in Charge~~ Mayor may remove a member appointed by the City from the Commission at any time, subject to approval by the Council.

3.115.030 General Powers & Duties.

A. To the extent provided in the Agreement and in this Chapter, the Commission may exercise all cable communications system regulatory powers of the City over grantees operating within the City, whether such powers are granted to the City by law, [pursuant to Chapter 12.15](#), or under franchises issued to grantees.

B. The Commission ~~shall~~will act in an advisory capacity to the City Council through the ~~Commissioner in Charge of the Office for Community Technology~~ City Administrator on all other matters pertaining to franchise agreements [and provisions of Chapter 12.15 related to construct](#)ing, maintain~~ing~~ing and operate~~ing~~ing cable communications systems or proposed franchise agreements for such systems.

C. All powers granted to the Commission by the Agreement ~~shall~~will be subject to the provisions of franchises issued to grantees and Chapter 12.15. In the event of any conflict between the Agreement and a grantee franchise or Chapter 12.15, the provisions of the franchise and Chapter 12.15~~shall~~will prevail.

D. The Commission may adopt such regulations as it deems necessary or desirable in order to exercise its powers and carry out its duties under the Agreement and this Chapter.

3.115.040 Portland Community Media.

The Mayor ~~and the Commissioner in Charge of the Office for Community Technology~~ ~~shall~~will ~~each~~ appoint ~~one~~two members of the board of directors of Portland Community Media, for staggered terms of two years. All appointments ~~shall~~will be confirmed by the Council. In appointing these directors, consideration ~~shall~~will be given to representation on the board of directors of the fields of arts, education, government, and community media; and of diverse representation including, without limitation, racial and ethnic minorities, non-English speaking people, gender, and low-income people. In addition, the Commission ~~shall~~will appoint one non-voting ex-officio director of the Portland Community Media board of directors.

3.115.060 Annexations.

A. In the event the City annexes territory for which another public body having jurisdiction to issue a franchise has issued a franchise to construct, operate and maintain a cable communications system, then franchisee's rights and obligations ~~shall~~will continue after annexation as they existed before annexation until expiration of that franchise, except that:

1. After annexation the City ~~shall~~will have all rights under the franchise of the issuing public body, including without limitation all rights to regulate, to collect and use franchise fees, regulation of system construction and operation within the annexed area, and rights to insurance, indemnification and other protections; and
2. After annexation the franchisee's obligations under the franchise regarding system construction and operation and other franchise requirements within the annexed area ~~shall~~will be to the City rather than to the issuing public body.

B. Nothing in this Section ~~shall~~will be deemed to modify the rights or obligations of the City or grantees under other franchises or Chapter 12.15.

3.115.070 Cable Television Consumer Protection.

On behalf of the City, the Commission ~~shall~~will enforce the cable television consumer protection standards set forth in Sections 3.115.080 through 3.115.140.

3.115.080 Definitions.

Unless the context indicates otherwise, words used in Sections 3.115.080 through 3.115.140 have the following meanings:

A. “Normal Business Hours” means those hours during which most similar businesses in the City are open to serve customers. In all cases, Normal Business Hours must include some evening hours at least one night per week and some weekend hours.

B. “Normal Operating Conditions” means those service conditions which are within grantee’s control. Conditions which are not within grantee’s include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Conditions which are ordinarily within the grantee’s control include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system. Grantees must adjust staffing and operations to maintain compliance with the service standards in anticipation of events and conditions within grantee’s control.

C. “Service Interruption” means the loss of picture or sound on one or more cable channels.

3.115.090 Local Office and Office Hours.

Grantees ~~shall~~will have customer service center and bill payment locations open at least during Normal Business Hours. Grantees ~~shall~~will locate customer service center and bill payment offices at locations that are convenient to subscribers and the public. Grantee customer service centers must be adequately staffed and able to respond to subscribers and the public not less than 50 hours per week, with a minimum of nine hours per day on weekdays and five hours on weekends excluding legal holidays. As used herein, "adequately staffed" means customer service representatives are available to respond to customers who come to the service center in at least the following ways:

- A. To accept payments;
- B. To exchange or accept returned converters or other company equipment;
- C. To respond to inquiries; and
- D. To schedule and conduct service or repair calls.

3.115.100 Telephone Answering Standard.

A. Cable system office hours and telephone availability. Grantees ~~shall~~must maintain a local, toll-free or collect call telephone access line which ~~shall~~must be available to its subscribers 24 hours a day, seven days a week. Grantees ~~shall~~must provide, in at least one prominent location, an easily identifiable telephone number for local customer service on all bills, account statements or statements of service to grantee subscribers. Toll-free telephone lines, either staffed or with answering capability, providing at least emergency referral information, must be operational 24 hours a day, including weekends and holidays. Grantee must have trained representatives available to respond to customer telephone inquiries during Normal Business Hours. After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received by grantee after Normal Business Hours must be responded to by a trained representative on the next business day.

B. Telephone Answering Time. Under Normal Operating Conditions, telephone answer time by grantee's customer representatives including wait time, ~~shall~~may not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time ~~shall~~may not exceed thirty (30) seconds. Grantees ~~shall~~must meet these standards no less than ninety (90) percent of the time under Normal Operating Conditions, measured on a calendar quarterly basis.

C. Busy Phones. Under Normal Operating Conditions, the customer ~~shall~~will receive a busy signal less than three (3) percent of the time.

3.115.110 Installations, Disconnections, Outages And Service Calls.

Under Normal Operating Conditions, grantees ~~shall~~must meet each of the following standards ~~shall be met~~ no less than ninety five (95) percent of the time measured on a quarterly basis:

A. Standard installations ~~shall~~must be performed within seven (7) business days after an order has been placed.

B. Under Normal Operating Conditions, grantee ~~shall~~must begin work on Service Interruptions promptly and no later than 24 hours after the interruption becomes known. Grantee must begin working on other service problems the next business day after notification of the service problem. Working on Service Interruptions must be more than merely acknowledging that a service interruption has occurred.

C. The appointment alternatives for installations, service calls and other installation activities ~~shall~~must be either a specific time or, at maximum, a four-hour time block during Normal Business Hours. Grantee may schedule service calls and other installation activities outside of Normal Business Hours for the express convenience of the customer.

D. Grantee ~~shall~~will be deemed to have honored a scheduled appointment under the provisions of this section when a technician arrives within the agreed upon time and, if the subscriber is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by the grantee.

E. Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. Rescheduling an appointment is an independent obligation and does not necessarily excuse the missed appointment.

F. If grantee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer ~~shall~~must be contacted. The appointment ~~shall~~must be rescheduled, as necessary, at a time which is convenient for the customer.

3.115.120 Notice Requirements.

A. Notifications to subscribers. Grantee ~~shall~~must provide written information on each of the following areas at the time of service installation, at least annually to all subscribers, and at any time upon request:

1. Products and services offered;

2. Prices and options for programming services and conditions of subscription to programming and other services;
3. Installation and service maintenance policies;
4. Instructions on how to use the cable service;
5. Channel positions programming carried on the system; and,
6. Billing and complaint procedures, including the address and telephone number of the City's Office for Community Technology.

B. Grantee ~~shall~~must notify customers of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the grantee. In addition, grantee ~~shall~~must notify subscribers thirty (30) days in advance of any significant changes in the other information required by this Section. Grantees are not required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

3.115.130 Billing.

A. Bill Statements. Grantee bills ~~shall~~must be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills ~~shall~~must also clearly delineate all activity during the billing period, including optional charges, rebates and credits. In case of a billing dispute, grantee must respond to a written complaint from a subscriber within seven (7) calendar days.

B. Refunds. Grantee ~~shall~~must issue refund checks promptly to customers, but no later than either the customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier. Grantee may withhold a refund pending the customer returning the equipment supplied by grantee if service is terminated.

C. Credits. Grantee ~~shall~~must issue credits for service no later than the customer's next billing cycle following the determination that a credit is warranted.

3.115.140 Reporting.

Grantees ~~shall~~must file reports to the Commission on a quarterly basis showing the performance of grantee customer service standard obligations under Sections 3.115.080 through 3.115.140. The quarterly reports ~~shall~~will cover the periods January 1 through March 31; April 1 through June 31; July 1 through September 31; and October 1 through December 31. The reports ~~shall~~will be due no later than 30 days following the end of a quarter. The reports ~~shall~~must include, at a minimum, figures and narrative indicating performance of the following standards for:

Local office hours

Telephone call center hours

Telephone answering

Busy signal statistics

Standard installations

Service interruptions

Appointment windows: made, cancelled, and rescheduled

Notice requirements

Billing (refunds and credits)

Chapter 3.116 Waterways Advisory Committee

~~(Chapter added by Ordinance 150413, effective September 17, 1980.)~~

3.116.010 Created - Organization.

~~(Amended by Ordinances 182671, 184046 and 191150, effective March 1, 2023.)~~

There hereby is created an advisory committee to the Director of the Bureau of Planning and Sustainability to be known as the Waterways Advisory Committee, consisting of not ~~less~~ fewer than 7 nor more than 11 voting members who serve without compensation. The Mayor appoints the members of the Committee, subject to confirmation by the Council, and the members ~~to~~ serve for a term of 2 years at the pleasure of the Mayor. The president of the Planning Commission or their ~~his or her~~ representative ~~is~~ a member of the Committee.

3.116.020 Procedures and Rules.

The Waterways Advisory Committee will establish its own rules, bylaws, and provide the procedure for all matters for consideration or action by the Committee. The Committee will hold meetings at such time as is set by the body at any other time at the call of the Chairman.

3.116.030 Duties.

~~(Amended by Ordinances 184046 and 191150, effective March 1, 2023.)~~

Members of the Waterways Advisory Committee will:

- A.** Review any zoning Code amendment relating to waterways before it is presented to the Planning Commission, make its findings available to the Planning Commission and City Council.
- B.** Review and comment to the Planning Commission and City Council on public or private riverfront development proposals that are potentially in conflict with the City's Greenway Plan.
- C.** Identify opportunities for City encouragement of commercial, residential, recreational, transportation and educational development that fulfills public goals.
- D.** Review the status of plans for publicly constructed segments of the Greenway path and suggest priorities for those segments.
- E.** Make recommendations to the Planning Commission and City Council for the development of City procedure to facilitate applicants' needs for a speedy and certain regulatory process and City policies consistent with such a goal.
- F.** Make recommendations to the Planning Commission and City Council on City policies governing use and development of the City's waterways.

Chapter 3.122 Economic Improvement Districts

3.122.010 Purpose.

The purpose of this Chapter is to establish procedures for the creation of two types of Economic Improvement Districts, one in which the assessment is mandatory and applied to all properties except Exempt Properties, the second type in which the property owner can decide whether to be assessed, a voluntary assessment, as authorized by state law. The City will be ultimately responsible for administering and operating any Economic Improvement District-, although the administration and operation may be carried out by others under contract with the City. All costs of administering and operating any Economic Improvement District will be paid entirely from assessments and fees actually received from the District; the City will not pledge its credit on behalf of the District; and the City will not loan funds to the District.

3.122.020 Definitions.

~~(Amended by Ordinance 189413, effective March 6, 2019.)~~

The following words and phrases when used in this Chapter ~~shall~~will have the following meanings, except where the context requires a different meaning:

- A.** "Advisory Committee" means a committee of persons representative of the owners and tenants of property within an Economic Improvement District and may consist of an existing association of property owners or tenants or both.

~~A. “Commissioner In Charge” means the commissioner in charge of the lead bureau.~~

B. “Economic Improvement” means:

1. The planning or management of development or improvement activities.
2. Landscaping, maintenance and provision of security for public areas.
3. The promotion of commercial activity or public events.
4. The conduct of activities in support of business recruitment and development.
5. The provision of improvements in parking systems or parking enforcement.
6. Any other economic improvement activity that specially benefits property. “Economic improvement” does not include any services to be provided on private property.

C. “Preliminary Economic Improvement Plan” means a plan prepared by the property owners or tenants within the proposed District or their designees setting out:

1. A description of economic improvements proposed to be carried out;
2. The number of years, to a maximum of three, in which assessments are proposed to be levied;
3. A preliminary estimate of annual cost of the proposed economic improvements;
4. The proposed boundaries designated by map or perimeter description of an Economic Improvement District within which subject properties would be assessed to finance the cost of the economic improvements;
5. The proposed formula for assessing the cost of the economic improvements against subject properties;
6. A preliminary estimate of the cost of City administration of the proposed Economic Improvement District;
7. A statement whether the assessment will be a voluntary assessment or mandatory assessment, and
 - a. If voluntary, that the scope and level of improvements could be reduced depending upon the amount of money collected; or,

- b. If mandatory, that the assessment will be considered a tax under the Oregon Constitution, Art. XI § 11b and it may be reduced to fit within the property tax limitation thereby affecting the scope and level of services described; and
 - 8. A statement of why the proposed economic improvements are not likely to be satisfactorily and equitably accomplished except through establishment of an Economic Improvement District.
- D. “Final Economic Improvement Plan” means a plan setting out:
 - 1. A description of economic improvements to be carried out;
 - 2. The number of years, to a maximum of three, in which assessments will be levied;
 - 3. The annual cost of the proposed economic improvements;
 - 4. The boundaries designated by map or perimeter description of the Economic Improvement District within which subject properties will be assessed to finance the costs of the Economic Improvement District;
 - 5. The formula for assessing the cost of the economic improvements against subject properties;
 - 6. A statement whether the assessment will be a voluntary assessment or mandatory assessment, and
 - a. If voluntary, that the scope and level of improvements could be reduced depending upon the amount of money collected; or,
 - b. If mandatory, that the assessment will be considered a tax under the Oregon Constitution, Art. XI § 11b and it may be reduced to fit within the property tax limitation thereby affecting the scope and level of services described; and
 - 7. 7. The cost of City administration of the Economic Improvement District.
- E. “Lead bureau” means the City office, bureau or commission determined by the Mayer-City Administrator to have the principal interest in a proposed Economic Improvement District.
- F. “Lot” means a lot, block, or parcel or land.
- G. “Owner” means the owner of the title to real property or the contract purchaser of record as shown on the last available complete assessment roll in the Office of the County Assessor.

H. "Subject Properties" means the real property within an Economic Improvement District except for Exempt Property.

I. "Exempt Property" means:

1. Residential real property and any portion of a structure used for residential purposes. In the event a structure is used for both residential and non-residential purposes, the land on which the structure is located ~~shall~~will not be Exempt Property. For purposes of this subsection, "residential real property" and "residential purposes" ~~shall~~will not include hotels and hotel uses, as defined in Section 33.12.420 of this Code, and motels and motel uses, as defined in Section 33.12.560 of this Code, but ~~shall~~will include hotel and hotel uses if, for the entire hotel or entire hotel use:

- a. The average rent per unit is less than \$2 per day, or
- b. A majority of the units regularly are occupied by the same tenants for more than 30 consecutive days, or
- c. A majority of the units regularly are occupied by occupants who pay for lodging on a monthly basis.

2. Property owned or being purchased by religious organizations including:

- a. All houses of public worship; and other additional buildings and property used solely for administration, education, literary, benevolent, charitable, entertainment, and recreational purposes by religious organizations, the lots on which they are situated, and the pews, slips, and furniture therein. However, any part of any house of public worship or other additional buildings or property which is kept or used as a store or shop or for any purpose other than those stated in this Section ~~shall~~will not be exempt property.
- b. Parking lots used for parking or any other use as long as that parking or other use is permitted without charge.
- c. Land and the buildings thereon held or used solely for cemetery or crematory purposes, including any buildings solely used to store machinery or equipment used exclusively for maintenance of such lands.

J. "Task Force" means a committee whose membership consists of representatives of those City offices, bureaus, and commissions that have a significant interest in a proposed Economic Improvement District and a representative appointed by the Advisory Committee. A representative designated by the City Administrator~~Director of the Revenue Division~~ ~~shall~~will be a member of each Task Force.

3.122.030 Council Control.

Whenever the Council determines that economic improvements would be appropriate and would afford a special benefit to subject properties within a particular District, the Council, subject to the provisions of this Chapter, may establish an Economic Improvement District and provide for payment of all or a portion of the cost by collection of assessments on either a mandatory or voluntary basis. The Council may decline for any reason within its sole discretion to establish a proposed Economic Improvement District. This Chapter ~~shall will~~ does not give to any person the right to have an Economic Improvement District established.

3.122.040 Statutory Provisions Applicable.

Statutory provisions applicable to Economic Improvement Districts ~~shall must~~ be followed by the City and by owners in all cases. The provisions of this Chapter are intended to supplement and to implement the statutory provisions.

3.122.050 Preliminary Institution of Economic Improvement District.

~~(Amended by Ordinance 189413, effective March 6, 2019.)~~

- A. The Council ~~shall will~~ consider creation of an Economic Improvement District whenever owners of Subject Properties file with the Revenue Division a petition for the establishment of a District containing the signatures of the owners of 33 percent or more of the area or of the assessed value of subject properties within the proposed District or whenever ~~a City Commissioner or~~ the Mayor files a report recommending the establishment of a District. A petition or report ~~shall must~~ contain a Preliminary Economic Improvement Plan. For the purposes of this Chapter, the "Revenue Division" means the revenue service and program of the City Administrator under Chapter 3.06.
- B. The Council may adopt a resolution directing the lead bureau to begin the Economic Improvement District formation process if the Council finds that:
 1. The costs of administering the proposed Economic Improvement District would not be substantial in relationship to the cost of the economic improvements;
 2. It is not likely that the economic improvements would be satisfactorily and equitably accomplished except through establishment of the Economic Improvement District;
 3. Establishment of the Economic Improvement District would be in the public interest;
 4. In the case of a District intended to impose a mandatory assessment, that the assessment can be accommodated within the property tax limitation and City budget; and

5. The economic improvements would afford a special and peculiar benefit to subject properties within the Economic Improvement District different in kind or degree from that afforded to the general public.
- C. The resolution may contain such revisions to the preliminary economic improvement plan as the Council deems appropriate based on the criteria set out in Paragraphs 1 through 5 of this Subsection and shall will designate those City offices, bureaus, and commissions to be represented on the task force for the proposed District.
- D. Upon adoption by the Council of a resolution under Subsection B of this Section, the Mayor shall will designate a lead bureau for the proposed Economic Improvement District from among those designated to be represented on the task force and shall will refer the matter to the Commissioner In Charge City Administrator.
- E. Immediately following the referral under Subsection D of this Section, the Commissioner In Charge Mayor City Administrator will ~~shall~~ appoint an advisory committee to assist the task force in development of the final economic improvement plan. The Commissioner Mayor City Administrator will ~~shall~~ strongly consider appointment of owners of property within the Economic Improvement District to the advisory committee. The Commissioner City Administrator Mayor may appoint as the advisory committee an existing association of property owners or tenants or both. The task force shall will encourage participation of the advisory committee in the plan development and administration process. The advisory committee shall will appoint a representative to the task force.

3.122.060 Final Plan and Ordinance Preparation.

~~(Amended by Ordinance 189413, effective March 6, 2019.)~~

- A. Immediately following Council adoption of a resolution under Section 3.122.050 B, the head of each office, bureau and commission to be represented on the task force shall will appoint its representative and notify the head of the lead bureau of the appointment.
- B. The City Administrator's Revenue Division's representative shall will provide to the task force a report setting out:
 1. Whether the petitioners under Section 3.122.050 A are owners of subject property in the proposed District;
 2. Delinquencies in taxes or City liens on subject properties in the proposed District;
 3. The true cash value of all real property located within the proposed District; and

4. The zoning of land within the District, including verification that only land zoned for commercial or industrial use is included within the District.
- C. The lead bureau shall will be responsible for preparing the documents referred to in Subsection D.
- D. The task force shall will prepare for the Commissioner In Charge City Administrator a report recommending whether the owners of property within the proposed Economic Improvement District shall will be formally notified of the proposal to establish the District, taking into consideration the criteria set out in Section 3.122.050 B. If the report recommends formal notification, the report shall will include a proposed Final Economic Improvement Plan and the report of the City Administrator Revenue Division's representative provided under Subsection B. The report also shall will include a proposed ordinance that:
1. States the Council's intention to proceed with formal notification regarding the proposed Economic Improvement District;
 2. States whether the assessments will be mandatory or voluntary;
 3. Contains the information in the Final Economic Improvement Plan, which may be included by attachment of the Plan as an exhibit; and
 4. Directs notice to be given in the manner provided by PCC 3.122.080.

3.122.070 Consideration of Final Plan and Ordinance.

- A. If the Commissioner in Charge City Administrator deems it appropriate, the Commissioner City Administrator shall may request that the Mayor, in their sole discretion, will file for Council consideration the report and ordinance prepared under Section 3.122.060 D.
- B. On consideration of the report and ordinance, the Council may approve, modify, or reject the report including any aspect of the Final Economic Improvement Plan, and the ordinance. If the Council determines that the proceedings for the proposed Economic Improvement District should go forward, the Council shall will adopt the ordinance including any modifications.

3.122.080 Notice to Owners.

(Amended by Ordinance 189413, effective March 6, 2019.)

- A. Following adoption of the ordinance under Section 3.122.070 B, the Revenue Division shall will mail notice to the property owners within the proposed Economic Improvement District which contains the following information:
1. The Council's intent to form an Economic Improvement District.

2. Benefitted properties will be assessed unless it is a voluntary assessment in which case only property owners who specifically request to be assessed will be assessed. An owner who fails to submit a written objection before or at the public hearing on assessment ~~shall~~ will be deemed to have made a specific request to be assessed.
3. The formula for determining the amount of the assessment.
4. The scope of the improvements and that the description of the boundaries of the proposed District and the full scope of the project are on file with the Revenue Division and where the file can be viewed. It should state that:
 - a. In the case of a voluntary assessment the scope and level of the improvements may be reduced depending on the amount of money collected; or
 - b. In the case of a mandatory assessment the scope and level of the improvements may be reduced if the amount of the assessment is compressed to fit within the property tax limitation imposed by the Oregon Constitution, Art. XI § 11b.
5. The estimated cost of the proposal, and that it may be reduced to the amount of money actually received.
6. The date, time and place of the hearing and that the proposal could be modified as a result of public testimony.
7. The classification or types of properties which are exempt and that a request for an exemption on an enclosed form must be filed not later than 21 days after the notice is mailed.
8. In the case of a voluntary assessment that it is an incurred charge and is not a tax and is a charge outside the property tax limitations in the Oregon Constitution, Art. XI, §11b.

3.122.090 Exemption Process.

~~(Amended by Ordinance 189413, effective March 6, 2019.)~~

- A. Property within the proposed District is conclusively presumed subject to assessment unless the owner files with the Revenue Division a claim for exemption not later than 21 days after the date of mailing or personal delivery of the notice.
- ~~A.~~ B. The Revenue Division, in its discretion, may examine a claim or claims for exemption to determine whether property claimed to be exempt from assessment is exempt property. The examination may include review of such evidence as the Revenue Division deems appropriate and may include a viewing of the

property. In the event the Revenue Division determines that the property for which an exemption is claimed is not exempt, the Revenue Division shall will give the owner written notice of the determination and the reasons, by mail or personal delivery. The notice shall must give the owner 10 days time within which to provide written evidence as to why the property is exempt. In the event the owner provides no written evidence within the time allowed, the property conclusively shall will be presumed not to be exempt property. In the event the owner submits written evidence, the Revenue Division shall will review the evidence and either approve or disapprove the claim for exemption and provide written notice to the owner, including a statement of the reasons for the Revenue Division's decision. The Revenue Division's approval or disapproval following review of the evidence shall will be final.

3.122.100 Hearing and Resolution Establishing District.

- A. The Council shall will hold a public hearing on the proposed Economic Improvement District at the time and place stated in the notice to owners of properties. The public hearing shall will be held no sooner than 30 days after mailing the notice. The Council may continue the hearing to such other time and place as it may deem appropriate. At the hearing, persons supporting or objecting to the proposed improvement and assessment shall will be entitled to be heard.
- B. If the Council, at the conclusion of the hearing, finds that the economic improvements will afford a special and peculiar benefit to subject properties within the Economic Improvement District different in kind or degree from that afforded to the general public and that the Economic Improvement District should be established, then the Council may adopt a resolution stating those findings and establishing the District.

3.122.110 Preparation and Notice of Assessments.

~~(Amended by Ordinance 189413, effective March 6, 2019.)~~

- A. Following Council adoption of a resolution establishing an Economic Improvement District based on the final Economic Improvement Plan, the Revenue Division shall will prepare the proposed assessment for each lot in the District that is a subject property and shall will file a proposed assessment ordinance, with a list of proposed assessments attached, with the City Council. The amount of assessment shall will be based on the cost of the economic improvements and the cost of City administration of the Economic Improvement District.
- B. Following preparation of the proposed assessments, the Revenue Division shall will mail to the owner of each lot to be assessed a notice containing the following information:

1. The description of the property being assessed.
2. The name of the District and whether it is a voluntary or mandatory assessment. In the case of a voluntary assessment a statement that the property will be assessed unless the property owner specifically requests in writing not to be assessed.
3. The length of the District and the total cost of the project, the assessment formula, and the amount of the assessment on the property.
4. The assessment will not change unless the Council finds it exceeds the benefit of the improvements, but the total amount and scope of the improvements and level of services could change to correspond to the amount of money collected. Further, the scope of the improvements and level of services could change as a result of the testimony.
5. The time, date and place of the hearing and that the following forms of objection may be filed:
 - a. A written objection to being assessed in which case no assessment will be placed on the property if it is a voluntary assessment. An owner who fails to submit a written objection before or at the public hearing ~~shall~~ will be deemed to have made a specific request for the economic improvement service to be provided during the time specified in the assessment ordinance;
 - b. An objection to the amount of the assessment on the grounds it is incorrect or exceeds the amount of benefit; and
 - c. An objection to the formation of the District.
6. A written objection may be filed with the Revenue Division prior to the hearing or made orally at the hearing. An objection to the assessment must explain the reasons the assessment is incorrect or exceeds the amount of benefit.
7. The assessment is due and payable immediately, and whether it may be paid in installments. The amount of interest if any and the fact there will be billing charges. The unpaid balance will become a lien on the property and failure to pay could result in foreclosure.
8. A voluntary assessment is an incurred charge and is a charge outside the property tax limitation imposed by the Oregon Constitution, Art. XI, §11b.
9. Property included in the District and assessed cannot be withdrawn from the District and the assessment will continue through the life of the District.

10. The name and phone number of a City staff person who can answer questions.

3.122.120 Hearing on Assessments.

~~(Amended by Ordinance 189413, effective March 6, 2019.)~~

- A. The Council ~~shall~~will hold a public hearing on the proposed assessment ordinance. The public hearing ~~shall~~will be held no sooner than 30 days after mailing the notice. The Council may continue the hearing to a date and time certain. At the hearing, property owners supporting or objecting to being assessed, to the amount of the assessment or to the formation of the District, ~~shall~~will be entitled to be heard.
- B. Written objections ~~shall~~will be considered to have been received by the Council at the hearing if actually received at the hearing or if received by the Revenue Division prior to commencement of the hearing. A written objection signed by a person purporting to have authority as agent or attorney to sign an objection on behalf of an owner ~~shall~~will be considered received from the owner only if there is included with the objection a copy in writing of the authority to act on behalf of the owner.
- C. If the Council at the hearing receives written objections to the formation of the District from owners of property upon which more than 33 percent of the total value of assessments are levied, then the Economic Improvement District ~~shall~~will not be established and assessments ~~shall~~will not be made.
- D. At the hearing, the Council ~~shall~~will consider any objections and may adopt, correct, modify, revise the proposed assessment ordinance. In the case of a voluntary assessment, the Council ~~shall~~must exclude from assessment property which the owner has requested be omitted from assessment. The request ~~shall~~will be made in writing and submitted prior to the close of the hearing.

3.122.130 Amendments to Ordinance.

- A. At the hearing under Section 3.122.100, the Council may amend by ordinance the initial ordinance adopted under Section 3.122.070. The procedures required by Sections 3.122.080 and 3.122.100 ~~shall~~will be repeated if the amendment:
 - 1. Changes the economic improvements to be carried out except this provision ~~shall~~will not apply to a voluntary assessment;
 - 2. Increases the likely assessment upon one or more properties; or
 - 3. Enlarges the Economic Improvement District;
- B. At the hearing under Section 3.122.120, the Council may amend by ordinance the initial ordinance adopted under Section 3.122.070 as subsequently amended.

If the amendment increases the likely assessment upon one or more properties, then the procedures required by Sections 3.122.110 and 3.122.120 ~~shall~~must be repeated. The procedures required by Section 3.122.080 through 3.122.120 ~~shall~~must be repeated if the amendment:

1. Changes the economic improvements to be carried out except this provision ~~shall~~will not apply to a voluntary assessment; or
2. Enlarges the Economic Improvement District.

3.122.140 Assessments.

- A. The Council ~~shall~~will not levy assessments in an Economic Improvement District in any year that exceed one percent of the true cash value of all the real property located within the District.
- B. Any new owner of benefitted property or any owner of benefitted property who excluded the property from assessment by submitting written objections may subsequently agree to the assessment of the property. The Council ~~shall~~will apply the assessment formula to the property and apportion the costs to the property for the remaining time in which the assessment is levied.
- C. The assessed property may not be relieved from liability for that assessment for any reason including change of ownership.

3.122.150 Limitation on Boundaries.

The Council ~~shall~~will not include within an Economic Improvement District any area of the City that is not zoned for commercial or industrial use.

3.122.160 Continuation of Assessments.

If the Council has established an Economic Improvement District and thereafter determines that it is necessary to levy assessments upon subject property in the District for longer than the period of time specified in the assessment ordinance that created the District, the Council ~~shall~~will enact an ordinance that provides for continued assessments for a specified number of years, to a maximum of three. The assessment of lots under such an ordinance ~~shall~~will be subject to the procedures required by Sections 3.122.110 and 3.122.120.

3.122.170 Expenditure of Moneys.

Money derived from assessments levied under this Chapter and from interest earned on that money ~~shall~~must be spent only for the economic improvements and for the cost of City administration of the Economic Improvement District described in the final Economic Improvement Plan. Subject to the requirements of any labor agreements to which the City is a party and to any applicable requirements of state law, the Council in

its discretion may authorize an agreement or agreements with the advisory committee appointed under Section 3.122.050 D for the committee to provide all or part of the economic improvements described in the final economic improvement plan.

3.122.180 Cost of Administration.

The cost of City administration of an Economic Improvement District ~~shall~~must include the actual cost of administrative services provided by the City related to the District.

3.122.190 Limitation on Expenditures.

Money spent for carrying out a final Economic Improvement Plan ~~shall~~must be limited to money actually received from assessments or from other public or private contributions to assist in carrying out the Plan.

3.122.200 Administration.

The task force for an Economic Improvement District ~~shall~~will be responsible for administration of the economic improvements to be carried out. With the concurrence of the head of the lead bureau, the task force may designate an employee of the lead bureau as the person responsible for day to day administration of the economic improvements. In the event the task force determines that the economic improvements should be performed by a contractor or contractors, the task force ~~shall~~will prepare for Council consideration contracts for the work. In each case, the contract for work ~~shall~~must include not less than the following:

- A. A description of the work to be done;
- B. A description of the method of compensation for the work;
- C. A description of records to be kept by the contractor to evidence performance of the work and of the documentation to be provided to the City to justify payment for work;
- D. A description of any liability to be born and insurance to be provided by the contractor; and
- E. A description of the rights of the City to terminate the contract prior to its completion.

3.122.210 Early Termination.

The ~~City~~ Council may terminate the activities of an Economic Improvement District in whole or in part prior to the normally scheduled termination date for the District by an ordinance. However, all applicable contract issues ~~shall~~must be resolved before activities are terminated. In the event of early termination, those funds remaining from assessments for the District, following payment of all obligations and costs of

administration incurred on behalf of the District, ~~shall~~must be returned to the owners of subject properties in amounts proportionate to the amounts of the assessments they paid for the District. In the event of early termination of only a part of the activities of an Economic Improvement District, the City Council, in the termination ordinance, may elect to apply remaining funds on a similarly proportionate basis as a credit against future District assessments against subject properties, with any funds remaining being returned to the owners as otherwise provided herein.

3.122.220 Surplus.

In the event, following the normally scheduled termination of an Economic Improvement District, including the payment of all obligations and costs of administration incurred on behalf of the District, there remain excess funds from assessments paid by owners of subject properties, then the ~~City~~ Council, by ordinance, ~~shall~~must provide for either:

- A. The return of the excess funds to the owners of subject properties in amounts proportionate to the amounts of the assessments they paid for the District;
- B. Use of the excess funds for continued provision of the economic improvements until the excess funds are fully spent; or
- C. Use of part of the excess funds as provided in B and return of the balance of the excess funds as provided in A.

3.122.230 Entry and Collection of Assessments.

~~(Amended by Ordinance 189413, effective March 6, 2019.)~~

- A. On adoption of an assessment ordinance under Section 3.122.120 D, the Revenue Division ~~shall~~will enter each assessment in the docket of City liens. All such assessments ~~shall~~will be collected in the same manner as local improvement assessments and failure to pay may result in foreclosure in the same manner as provided for other assessments.
- B. The assessments may be paid in semi-annual payments, however the City may charge a billing fee.

~~3.122.240 Economic Improvement Fund.~~

~~(Repealed by Ordinance 170223, effective July 1, 1996.)~~

Chapter 3.123 Portland Utility Board

~~(Chapter replaced by Ordinance 187174, effective July 31, 2015.)~~

3.123.010 Created - Purpose.

~~(Amended by Ordinance 190652, effective January 21, 2022.)~~

~~The~~A Portland Utility Board is ~~hereby~~ created. The Board's purpose is to advise the City Council, on behalf of and for the benefit of the people of Portland, on the financial plans, capital improvements, annual budget development and rate setting for the City's water, sewer, stormwater, and watershed services. The Board will advise ~~the~~ Council on the establishment of fair and equitable rates, consistent with balancing the goals of customer needs, legal mandates, existing public policies, such as protecting water quality and improving watershed health, operational requirements, and the long-term financial stability and viability of the utilities.

3.123.020 Scope.

A. The Portland Water Bureau and the Bureau of Environmental Services use multi-year financial planning to prioritize programs and to project operating and capital costs associated with policies and programs, and to estimate overall rate impacts. The Board will fully participate in the bureaus' financial planning and budgeting processes. The Board will work with the bureaus to develop long-term, 20-year mission plans. The bureaus update their financial plans throughout the year to reflect significant changes in revenues or requirements, and revise the plans annually. The Board will review the proposed financial plans and revisions, and submit its findings and recommendations to the Council as part of the City's annual financial planning process. The Board will actively monitor bureau spending through the fiscal year and be briefed on final fiscal year accounting including status of debt load and rate stabilization funds. The Board will monitor bureau and City Council responses to and implementation of audits, in consultation with the ~~Commissioner(s) in Charge~~Mayor. The Board will monitor City Council budget amendments, capital improvement plans (CIP) and implementing actions throughout the fiscal year. The Board will participate in evaluating the performance of the bureaus. The bureaus will engage with the Board throughout the fiscal year when developing budgets. The Board may serve, at the Mayor's pleasure, as an advisor in the development of Mayor's budgets for the Portland Water Bureau and the Bureau of Environmental Services.

B. The Board will periodically consult the bureaus and the ~~Commissioner(s) in Charge~~City Administrator on strategic communications, public education and involvement, as well as review audits and other reports. The Board will identify and report to the ~~Commissioner(s) in Charge~~City Administrator, the Mayor or the Council on important issues and challenges for the Portland Water Bureau and the Bureau of Environmental Services. The Board will monitor the bureaus' efforts to achieve equity in the provision of services throughout the City.

C. Participate in the rate design process: The Board will report on proposed rate changes to the Council during the annual budget hearings and development processes for water, sanitary sewer, watershed health, and stormwater. The Board ~~shall~~will report on other city activities or proposed policies with significant impacts to water, sanitary sewer, and stormwater rates.

D. When the bureaus form other advisory groups on utility matters such as facility or project specific concerns, the Board and its staff will exchange information with these other advisory groups to coordinate policy advice to the Council and the bureaus.

E. Relationship to other interested parties: The Board's primary responsibility and duties are to advise the Council, and its deliberations and recommendations ~~shall~~ will be directed to Council accordingly. The Board may also share the results of its deliberations and recommendations delivered to Council with interested individuals and groups including neighborhoods, business associations, and public interest groups.

3.123.030 Membership.

~~(Amended by Ordinances 188015 and 190652, effective January 21, 2022.)~~

The Board ~~shall~~ will have 11 permanent members. Board members ~~shall~~ will be appointed by the Mayor ~~in consultation with the Commissioner(s) in Charge of the bureaus,~~ and confirmed by the Council. Any Council member may submit nominations to the ~~Commissioner(s) in Charge~~ Mayor. ~~In consultation with the Commissioner(s) in Charge,~~ The Mayor shall will appoint the two Co-Chairs of the Board. Six members ~~shall~~ will constitute a quorum of the Board.

3.123.040 Appointments - Composition.

~~(Amended by Ordinance 188015, effective September 29, 2016.)~~

A. General Criteria. All members must reside in or work predominantly in the city of Portland and have an interest in water, sewer, stormwater, and watershed health issues, such as system development and maintenance, service delivery, service costs and impacts on low-income households, economic development, public health, conservation, green infrastructure or the environment. In making Board appointments, the Mayor and Council ~~shall~~ will strive to have a Board ~~which that~~ reflects the diversity of the Portland community, including, but not limited to, the following factors: areas of expertise, advocacy, experience, community involvement, profession, education and/or, economic status. Preferred appointees should have a range of qualified professional and academic expertise, and community volunteer experience. Appointees will include a current employee in a represented bargaining unit with the Portland Water Bureau or the Bureau of Environmental Services. Skills that will serve the Board well include: technical knowledge of water, stormwater, and sewer utility operation and issues, accounting, civil engineering, conservation, environmental sciences, equity, health sciences, public administration, urban planning, or utility economics, financial and capital improvement analysis, ecosystem science, environmental protection, political process, group process, and communications.

B. Restrictions. No individual with any direct financial interest in either city utility other than as a rate-paying customer or as an employee of the utility bureaus may serve on the Board.

C. The Mayor ~~shall will, in consultation with the Commissioner(s) in Charge,~~ appoint three non-voting, ex officio members annually, to engage utility bureau employees in the budget process. The ex officio members shall will be one represented and two non-represented utility bureau employees, appointed to participate in the process of developing recommendations on the bureaus' annual budgets. The voting and ex officio members shall will be evenly distributed between the utility bureaus. The term of ex officio members shall will be for 1 year. Ex officio members may be re-appointed up to three times.

3.123.050 Terms.

~~(Amended by Ordinance 190652, effective January 21, 2022.)~~

A. Board members will be appointed to serve for a term of 3 years. The terms of each member shall will run from the date of the City Council's confirmation of the member's appointment, or such other date as the Council may establish.

B. The Board may make recommendations to the Mayor regarding the reappointment of existing members. Notwithstanding the limitations of this Section, a Board member may continue to serve until ~~his or her~~their replacement is appointed.

C. If any member of the Board is absent more than three regularly scheduled meetings of the Board during any 12~~-~~month period, without having notified the Co-Chairs in advance of such absence, such member shall will be deemed to have resigned from the Board. The member's position shall will thereafter then be vacant and subject to appointment by the Mayor.

D. The Mayor may remove any member of the Board at ~~his or her~~the Mayor's discretion for due cause, including but not limited to malfeasance or neglect of duties.

3.123.060 Standing Committees.

A. The Board may at any time establish standing committees of at least three individuals to address specific issues related to the Board's purpose.

B. The Board may designate more specific roles and responsibilities for any standing committee in the Board by-laws.

3.123.070 Staffing.

A. The City Budget Office will provide staffing for the Board, with logistical and topic-related support from the Portland Water Bureau, the Bureau of Environmental

Services, and other bureaus or agencies as may be needed. Staffing should be experienced and skilled in financial analysis, utilities, and government operations within the context of environmental stewardship.

B. ~~Commissioner(s)-in-Charge~~City Administrator liaisons to the two utility bureaus shall will serve as a resource to the Board and attend its meetings.

3.123.080 Meeting Schedule.

~~(Amended by Ordinance 190652, effective January 21, 2022.)~~

The Board shall will meet at least once monthly on a regular date established by the Board. Additional meetings may also be scheduled during annual budget and rate review periods as determined by the Board Co-Chairs. The Board Co-Chairs, with assistance from the Board's staff, will develop meeting agendas in consultation with others including Board members, the utility bureaus, and the ~~Commissioner(s)-in-Charge~~City Administrator.

3.123.090 By-Laws.

A. The Board shall will adopt by-laws to govern its procedures within the purposes of this Chapter that shall will not conflict with any portion of this Chapter and ~~which that~~ are subject to the prior review and approval of the Mayor, with approval as to legal sufficiency by the City Attorney. These by-laws shall will include specifications concerning selection and tenure of standing committee chairs, division of responsibilities, attendance policies, meeting schedules, as well as communications between the Board and City agencies, the media and the general public, and any other appropriate matters. As an initial action, the ~~PUB-Board~~ will establish operating procedures that define expectations for member participation and roles and address transparency in its deliberations, public information and participation, and equity.

B. The by-laws shall will specify procedures for public testimony, including opportunities for public comments at each Board meeting.

3.123.100 Annual Report and Work Session.

A. Annually, the Board shall will prepare and submit to the Council a report summarizing the work performed by the Board during the previous year. The Board shall will submit the annual report within the first 3 months following the beginning of each fiscal year for the utility bureaus. The annual report shall will include, but need not be limited to, a summary of issues reviewed and analyzed; a list of briefings and reports received from staff, outside experts and other informed parties; a summary of recommendations forwarded to the Council; and a summary of Council action on the recommendations.

B. The Board's report will be presented to the Council in a work session. In addition, the Board will present a work plan outline for the next year and seek input from the Council on potential next steps.

Chapter 3.124 Portland Bureau of Emergency Management

(Chapter replaced by Ordinance [184740](#); Amended by Ordinance [185304](#), effective June 1, 2012.)

3.124.010 Definitions.

(Amended by Ordinances [185304](#) and [189462](#), effective May 17, 2019.)

The following definitions apply to Chapters 3.124 through 3.126:

A. "Comprehensive Emergency Management Plan (CEMP)" means a written document that describes the City's overall emergency management plan. A CEMP specifies the purpose, organization, responsibilities and facilities of the agencies and officials of the City in the mitigation of, preparation for, response to, and recovery from emergencies and disasters.

B. "Director" means the director of the Portland Bureau of Emergency Management.

C. "Emergency" means any natural, technological or human-made, event or circumstance causing or threatening: widespread loss of life, injury to persons or property, [harm to the environment](#), human suffering or [financial-economic](#) loss, including but not limited to fire, [wildfire](#), explosion, flood, severe weather, landslides or mud slides, drought, earthquake, volcanic activity, tsunamis or other oceanic phenomena, spills or releases of oil or hazardous material, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, sabotage, [cybersecurity incidents](#), acts of terrorism and war.

D. "Emergency Coordination Center (ECC)" means the centralized location where local officials gather during an emergency to coordinate emergency response activities and implement direction from the Mayor [or Mayor's delegate or successor under Chapter 15.08 Administrator](#).

E. "Emergency Management" means an approach to prevent, protect against, respond to, recover from, and mitigate the effects of incidents.

F. "Emergency Notices" means information that is disseminated primarily in anticipation of or during an emergency. In addition to providing situational information to the public, it frequently provides directive actions required to be taken by the general public.

G. "Emergency Plan" means an ongoing plan for responding to a wide variety of potential hazards.

H. "Incident" means an occurrence, natural or human-made, that requires a response to protect life or property in an emergency.

I. "National Incident Management System" (NIMS) means the Federal Government's standardized framework of doctrines, concepts, principles, terminology, and organizational processes for emergency management.

J. "Continuity of Operations" (COOP) Plan means a plan that describes how a bureau will continue to perform its essential functions following an event that disrupts normal operations.

3.124.020 Portland Bureau of Emergency Management.

~~(Amended by Ordinances 185304 and 189462, effective May 17, 2019.)~~

There is established by the City Council the Portland Bureau of Emergency Management (PBEM).

3.124.030 Purpose.

~~(Amended by Ordinance 185304, effective June 1, 2012.)~~ The purpose of PBEM is to centralize leadership and coordination of emergency management.

3.124.040 Organization.

~~(Amended by Ordinances 185304 and 189462, effective May 17, 2019.)~~

The Portland Bureau of Emergency Management ~~shall~~ will consist of the Director and such other ~~employees~~ positions as the Council may provide. The Director ~~shall~~ will be immediately responsible to the ~~Mayor or its commissioner in charge if other than the Mayor~~ City Administrator, and, thereafter, to the City Council.

3.124.050 Director's Powers and Duties.

~~(Amended by Ordinance 185304, effective June 1, 2012.)~~

~~¶~~ Subject to the approval of the City Administrator, the Director of the Portland Bureau of Emergency Management's duties and powers include, but are not limited to the following:

- A. Overall administrative authority for the Office;
- B. Serve as principal strategic advisor to the Mayor and City Administrator concerning emergency management;
- C. Implement policy directives of the City Council and the Disaster Policy Council and enforce the schedules and plans approved by them;
- D. Manage the Emergency Coordination Center (ECC), establishing the overall structure, roles, responsibilities and direction for the operation of the ECC and ensuring that the ECC is appropriately sited, staffed, equipped, and maintained. The Director may reassign employees to ECC duties as required;
- E. Maintain written emergency plans, including all chapters, annexes and appendices of the Comprehensive Emergency Management Plan (CEMP) and annually submit a report with any recommendations for revisions;
- F. Maintain records documenting compliance with requirements of federal and state emergency management programs, including NIMS. When a bureau other than PBEM possesses such records, the bureau shall will immediately produce them upon the request of the Director;
- G. Develop and implement training and exercise programs for responders that test the effectiveness of the CEMP and other emergency management plans;
- H. Develop and implement processes, procedures, and systems for communicating emergency notices to the public and responders about incidents;
- I. Develop and implement programs to educate the public about emergency preparedness, including volunteer programs, and train citizens to assist in emergencies;
- J. Evaluate the effectiveness of the City's response to an emergency event.

3.124.060 Staff and Delegation.

Subject to the approval of the City Administrator: (Amended by Ordinances 185304 and 189462, effective May 17, 2019.)

- A. The Director may appoint an Operations Manager who is accountable to the Director and may appoint other personnel necessary to carry out the provisions of this Chapter, when in keeping with the adopted budget for PBEM or specially funded projects.
- B. The Director may delegate to staff members any of the Director's duties.
- C. In the event of an emergency, the line of succession for the PBEM is: the succession plan described in the Bureau's COOP plan.

D. When a succession occurs, all duties and responsibilities of the Director are transferred to the successor and any delegations remain in place unless withdrawn by the new Director.

3.124.070 Neighborhood Emergency Team Program.

The purpose of the Neighborhood Emergency Team Program is to prepare neighborhoods for self-sufficiency during an emergency by providing individuals with information, training, and exercises related to emergency preparedness and response.

3.124.080 Neighborhood Emergency Teams.

A. As part of the Neighborhood Emergency Team Program, the Director, subject to the approval of the City Administrator, is authorized to:

1. Create Neighborhood Emergency Teams (NET) and define the qualifications for membership therein;
2. Develop written processes and procedures governing the conduct of members;
3. Conduct or cause to be conducted such inquiries or investigations into the fitness of an individual to serve as a NET member that the Director believes are necessary and appropriate;
4. Conduct or approve of ongoing training for NET members;
5. Designate certain NET members as team leaders for the purpose of supervision;
6. Dismiss or remove NET members.

B. When acting as agents of the City, NET members are entitled to defense and indemnification pursuant to ORS 30.285.

3.124.090 Neighborhood Emergency Team Leaders.

A. All NET members ~~shall~~will be immediately responsible to a team leader and thereafter the Director. Subject to the approval of the City Administrator, ~~t~~he Director may dismiss or remove a NET Leader.

B. NET leaders may designate one assistant for each five NET members or fraction thereof for purposes of maintaining adequate supervision of NET members during training or deployment.

C. NET leaders are responsible for the organization, ongoing training, communication with and operational safety of the NET members assigned to their teams.

D. NET leaders ~~shall~~will attend regularly scheduled meetings for the purposes of training and communicating with NET members.

E. NET leaders ~~shall~~will evaluate the performance of NET members and may recommend to the Director the dismissal or removal of NET members.

Chapter 3.125 Disaster Policy Council

~~(Chapter replaced by Ordinance 184740, effective July 13, 2011.)~~

3.125.010 Disaster Policy Council.

The Disaster Policy Council (DPC) is ~~hereby~~ created for the purpose of promoting interbureau cooperation in furtherance of the City's integrated emergency management goals.

3.125.020 Duties.

~~(Amended by Ordinances 185304 and 189462, effective May 17, 2019.)~~

The DPC's duties include, but are not limited to, the following:

A. During an emergency, advise the Mayor on policy matters pertaining to management of the emergency;

B. Approve strategic, response and work plans developed by the Portland Bureau of Emergency Management and the Emergency Management Steering Committee defining the City's emergency management program goals and priorities;

C. Monitor individual bureau progress on work plan tasks, strategic plan tasks, and response plan updates. The Mayor, in consultation with the DPC and City Administrator, may compel bureaus to create and complete plans and updates;

D. Convene meetings no less often than twice a year and whenever :

~~1. 1. The President of the City Council changes~~

~~1.~~ 2. Requested by the Mayor.

E. Keep records of meetings and decisions.

3.125.030 Membership.

~~(Amended by Ordinances 185304, 186729 and 189462, effective May 17, 2019.)~~

~~A.~~ The DPC ~~shall~~will consist of the following members:

~~B.~~ **A.** The Mayor's Chief of Staff, who ~~shall~~will be Chair;

~~C.~~ ~~**B.** Commissioner serving as President of the City Council, who shall be Vice Chair;~~

~~D.~~ ~~**C.** If the Mayor or the President of the Council is not the Commissioner-in-Charge of the Portland Bureau of Emergency Management, the Commissioner-in-Charge of the Portland Bureau of Emergency Management or his or her designee, unless it would create a quorum of the City Council;~~

~~D.B.~~ Chief Administrative Officer-City Administrator, who will be Vice Chair;

~~E.~~ **C.** Deputy City Administrators; for Community Safety

~~D.E.~~ Assistant City Administrator;

~~E.~~ City Attorney;

~~F. 1.~~ ~~**E.F.** City Auditor;~~

~~**FG.** Director, Portland Bureau of Emergency Management;~~

~~**GH.** Chief of Portland Fire & Rescue;~~

~~**HI.** Chief of Portland Police Bureau;~~

~~**IJ.** Director, Bureau of Emergency Communications;~~

~~**JK.** Administrator, Portland Water Bureau;~~

~~**KL.** Director, Bureau of Transportation;~~

~~**LM.** Director, Human Resources;~~

~~**MN.** Director, Bureau of Environmental Services;~~

~~**NO.** Director, Portland Parks and Recreation;~~

~~**OP.** Director, Portland Permitting & Development;~~

~~**PQ.** Director, Joint Office of Homeless Services~~

~~**QR.** Director, Bureau of Revenue and Financial Services~~

~~**R.S.** Director, Bureau of Technology Services~~

~~**S.T.** If the Mayor is unavailable to Chair the DPC, the duties ~~shall~~will be performed and authority exercised by the first of the City officials in the order of membership listed in Subsections A.-~~SR.~~ above who is able and available.~~

3.125.040 Procedures.

When the DPC is required to approve plans under subsection 3.125.020 C., the decision making process ~~shall~~will be by consensus. The consensus ~~shall~~will be determined by the Chair.

3.125.050 Staff Support to Disaster Policy Council.

~~(Amended by Ordinance 185304, effective June 1, 2012.)~~

The Portland Bureau of Emergency Management ~~shall~~will provide staff support to the DPC, including recording and communicating its decisions.

Chapter 3.126 Emergency Management Steering Committee

~~(Chapter replaced by Ordinance 184740, effective July 13, 2011.)~~

3.126.010 Emergency Management Steering Committee.

~~(Amended by Ordinance 189462, effective May 17, 2019.)~~

The Emergency Management Steering Committee (EMSC) is ~~hereby~~ created for the purpose of assisting the Portland Bureau of Emergency Management in developing emergency management policies and procedures for incidents requiring significant interbureau coordination.

3.126.020 Duties.

~~(Amended by Ordinance 185304, effective June 1, 2012.)~~

The EMSC's duties include, but are not limited to, the following:

- A.** Assign lead author responsibility to specific bureaus for the development of emergency plans, including annexes and appendices to the CEMP, and approve schedules for plan completion, plan exercise, review and revision;
- B.** Develop strategic, response, and work plans in coordination with the Portland Bureau of Emergency Management defining the City's emergency program goals and priorities;
- C.** Devise bureau-specific protocols for mobilizing resources to respond to emergencies;
- D.** Assess individual Bureau compliance with emergency plans;

- E. Keep records of decisions;
- F. Convene meetings at least monthly and at other times as requested by the Director;
- G. Make periodic reports to the Disaster Policy Council so that the DPC can fulfill its duty under PCC 3.125.020.

3.126.030 Membership.

~~(Amended by Ordinances 185304, 189078 and 189462, effective May 17, 2019.)~~

The EMSC ~~shall~~will consist of qualified staff from the following Bureaus:

- A. Water Bureau;
- B. Portland Fire & Rescue;
- C. Portland Police Bureau;
- D. Bureau of Environmental Services;
- E. Portland Parks & Recreation;
- F. Bureau of Transportation;
- G. Bureau of Emergency Communications;
- H. Portland Bureau of Emergency Management;
- I. Portland Permitting & Development;
- J. Bureau of Technology Services;
- K. Office of Community & Civic Life;
- L. Bureau of Human Resources;
- M. Joint Office of Homeless Services; and
- N. Bureau of Revenue and Financial Services.

3.126.040 Staff Support to the Emergency Management Steering Committee.

~~(Amended by Ordinance 185304, effective June 1, 2012.)~~

The Portland Bureau of Emergency Management ~~shall~~will provide staff support to the EMSC.

Chapter 3.127 Bureau of Portland Fire and Police Disability and Retirement

~~(Chapter added by Ordinance 180690, effective December 20, 2006.)~~

3.127.010 Bureau of Portland Fire and Police Disability and Retirement.

In conjunction with Chapter 5 of the Charter of the City of Portland, there is established by the City Council, the Bureau of Portland Fire and Police Disability and Retirement as a part of the Mayor's portfolio and charged with the implementation of Chapter 5 of the Charter.

3.127.020 Purpose.

The purpose of this office is to administer Chapter 5 of the Charter of the City of Portland. This purpose may be accomplished by direction from the Board of Trustees of the Fire and Police Disability and Retirement Fund ("FPDR") and in accordance with the provisions of Chapter 5 of the Charter of the City of Portland.

3.127.030 Organization.

~~(Amended by Ordinance 180917, effective May 26, 2007.)~~

The Bureau of Portland Fire and Police Disability and Retirement ~~shall~~will be directly responsible to its Board of Trustees and to the Mayor. Pursuant to Chapter 5 of the Charter, the FPDR Board ~~shall~~will have the powers listed in Section 5-202 of the Charter. Other bureaus may provide FPDR with necessary information and assistance in accordance with Chapter 5 of the Charter and include, but are not limited to, Portland Fire & Rescue, the Bureau of Police, and the Bureau of Human Resources.

3.127.040 Administrator's Powers and Duties.

The Administrator of the Fire and Police Disability and Retirement Fund ~~shall~~will:

- A. Be the Director of the Bureau of Portland Fire and Police Disability and Retirement, in accordance with Charter Chapter 5 Section 5-202;
- B. Be responsible for administering the terms of the FPDR ~~P~~plan;
- C. Serve as the principle administrator of the FPDR plan and have the power to initially approve or deny claims filed with the FPDR and to subsequently suspend, reduce or terminate benefits as provided in Charter Chapter 5;

- D. Lead and direct the activities of the staff of the FPDR;
- E. Oversee and direct other agents or advisers of the FPDR including actuaries and attorneys;
- F. Be responsible for integrating disability, retirement, and return-to-work programs with other bureaus within the City where applicable; and
- G. Review and propose amendments as necessary to the FPDR to conform to changes in federal or state law and, as appropriate, provide Council with the documentation necessary for its review and approval of the same.

3.127.050 Staff and Delegation.

The Administrator may delegate to ~~their~~his or her staff members any of the Administrator's duties when the Administrator is not available or able to perform those duties.

Chapter 3.128 Office of Equity and Human Rights

~~(Chapter replaced by Ordinance 184880, effective September 21, 2011.)~~

3.128.010 Creation and Organization.

There is established the Office of Equity and Human Rights. The ~~Office~~ Office of Equity and Human Rights shall will consist of ~~the Director and such other employees such positions~~ as the ~~Council City Administrator~~ may provide. The ~~Director Office shall will~~ report to the ~~Commissioner in Charge~~ Equity Officer.

3.128.020 Purpose.

The purpose of the Office of Equity and Human Rights is to:

- A. Promote equity and reduce disparities within City government;
- B. Provide guidance, education and technical assistance to all bureaus as they develop sustainable methods to build capacity in achieving equitable outcomes and service;
- C. Work with community partners to promote equity and inclusion within Portland and throughout the region, producing measurable improvements and disparity reductions;
- D. Support human rights and opportunities for everyone to achieve their full potential; and

E. Work to resolve issues rooted in bias and discrimination, through research, education, and interventions.

3.128.030 Director's Powers and Duties of the Office.

~~(Amended by Ordinance 186898, effective November 19, 2014.)~~

The duties of the ~~Director of the Office of Equity and Human Rights~~Office include, but are not limited to:

~~A. Overall administration of the Office and supervision of its staff;~~

~~BA.~~ Implementing the policy and executive directives of the ~~City~~ Council and the ~~Commissioner in Charge~~Mayor, and proposing policies and practices to achieve the purpose of the Office, and adopt ~~administrative rules~~, procedures and forms to assist in implementing City policies;

~~BC.~~ Developing an annual work plan to organize and prioritize the work of the Office;

~~CD.~~ Working with the Human Rights Commission, the Portland Commission on Disability and all other City bureaus, offices, boards and commissions, as well as regional partners in government, business and the community, to increase equitable outcomes and reduce disparities;

~~DE.~~ Recommending implementation strategies, accountability mechanisms, evaluation standards, and specific actions to the ~~City~~ Council that will achieve the goals of the Portland Plan Equity initiative, and other equity and human rights policies adopted by ~~City~~the Council;

~~EF.~~ Providing reports to the Council and the community annually and as requested.

3.128.040 Administrative Rulemaking Procedures.

The City Administrator may adopt administrative rules as authorized by Charter.
~~(Amended by Ordinance 186898, effective November 19, 2014.)~~

~~A. Purpose. The Director Office has been delegated the authority to adopt and administer administrative rules appropriate to perform the duties set forth in Section 3.128.030. Administrative rules shall must be adopted according to the procedures in this Section.~~

~~B. Adopting Rules.~~

~~1. Prior to the adoption or amendment of a permanent rule, the Director Office shall must:~~

~~a. Give notice of the proposed rule at least 15 days prior to the effective date of the rule to City Commissionerthe Council, Mayor, City Administrator, Bureau Directors and other parties of interest. The notice shall must include a brief description of the subjects covered by the proposed rule, the final date for acceptance of written comments, the location to submit comments, and the location where copies of the full set of the proposed rules may be obtained.~~

~~b. During the comment and review process, the Director Office will analyze written comments, engage stakeholders and solicit legal review. The Director Office may either adopt the proposed rule, modify it or reject it.~~

~~c. If the Director Office makes a substantial modification to the proposed rule, the Director Office may provide additional time for review and comment prior to adoption.~~

~~d. Unless otherwise stated, all rules will be effective upon adoption by the Director Office. Permanent rules shall must be filed in the Portland Policy Documents repository.~~

~~e. Upon consultation with the Commissioner in ChargeEquity Officer and the City Administrator, the Director Office may adopt an interim rule without prior notice upon a finding that a failure to act promptly will result in prejudice to the City's interest. Interim rules will be effective for a period of no longer than 180 days. No later than 15 days after adoption, notice of the interim rule shall must be given to City Commissionerthe Council, Mayor, Bureau Directors and other parties of interest as identified by the Director.~~

~~2. All administrative rules shall must be posted on the Bureau's website.~~

~~3. The Director Office may repeal any adopted rules upon consultation with the Commissioner in ChargeEquity Officer and the City Administrator. Notice of repeal will be given to City Commissionerthe Council, Bureau Directors and other parties of interest.~~

Chapter 3.129 Human Rights Commission

~~(Chapter added by Ordinance 181670, effective March 19, 2008.)~~

3.129.010 Staffing and Membership.

~~(Amended by Ordinance 184880, effective September 21, 2011.)~~

There is established in the City ~~of Portland~~ a Human Rights Commission. The Commission ~~shall~~ will be staffed by the Office of Equity and Human Rights. The Commission ~~shall~~ will consist of 11 to 15 members. All members ~~shall~~ will serve without compensation. Appointments are for staggered terms of three years. No member may serve more than two consecutive ~~three~~ three-year terms. When a vacancy occurs, a Human Rights Commission workgroup – after consultation with the ~~Commissioner in Charge of the Office of Equity and Human Rights~~ Equity Officer – nominates, the Mayor appoints, and the Council confirms, a member to fill the vacancy. This same process ~~shall~~ will be used when an interim vacancy occurs to appoint a member to fill the balance of the unexpired term. Members ~~shall~~ will be appointed by the Mayor so as to provide representation from a reasonably broad spectrum of the community, including without limitation the following factors: areas of expertise, advocacy experience, community involvement, profession, education, race, ethnicity, gender, gender identity, sexual orientation, national origin, age, religion and geographic identification. Members must live, work, worship or be enrolled in school within the City ~~of Portland~~. Members are encouraged to establish constructive relationships with each member of Council, the ~~City~~ Auditor and other elected officials. The Mayor may remove a member from the Commission at any time, with the recommendation of the Commission and subject to approval by the Council.

3.129.020 Mission.

~~(Amended by Ordinance 184880, effective September 21, 2011.)~~

The Human Rights Commission ~~shall~~ will work to eliminate discrimination and bigotry, to strengthen intergroup relationships and to foster greater understanding, inclusion and justice for those who live, work, study, worship, travel and play in the City ~~of Portland~~. In doing so, the Human Rights Commission ~~shall~~ will be guided by the principles embodied in the United Nations Universal Declaration of Human Rights and by the Portland Plan Equity initiative. The Human Rights Commission ~~shall~~ must report at least annually to the Council on the activities of the Human Rights Commission (to include any subcommittees or task forces as may be established) on the progress of the Commission and any recommendations to the Council for further action.

3.129.030 Jurisdiction

The jurisdiction of the Commission will include all practices and incidents occurring in the City ~~of Portland~~ which affect people who live, work, study, worship, travel or play in the City. The Commission ~~shall~~ will have jurisdiction to address such practices and incidents through education, research, advocacy and/or intervention, but ~~shall~~ will not have civil rights enforcement authority.

Chapter 3.130 Administrative Appeals

3.130.010 Definitions.

For the purpose of this Chapter:

- A. "Administrative Act" means a final action, decision, determination, or order of Council, the City Administrator, a bureau, department, or office. Administrative acts do not include legislative acts of Council, any City employment action, decision, determination, or order, or any action, decision, determination, or order that is subject to the review procedures set forth in Title 33 of the Code.
- B. "Administrative Appeal" means appeals of administrative acts by appellants when the right to appeal is provided by Code or rule, and the Code or rule requires the appeal to be decided by a bureau, department, office, board, hearings officer, or Council acting in its quasi-judicial capacity.
- C. "Appellant" includes any person given the right to appeal an administrative act by Code or a rule. As used in this Chapter, "appellant" does not include prospective, current, or former City employees contesting any administrative act related to their employment, employment benefits, application for employment, termination of employment, or internal complaint arising out of or connected with their employment.
- D. "Rule" means an administrative rule or bureau policy, as each term is defined in Section 1.07.020.
- E. "Timely" means that written notice is provided to the appellant in accordance with the time period specified in the Code or rule providing for the right of appeal. If the applicable Code or rule does not specify a time period, "timely" means that written notice is provided as soon as practicable after the right to request an administrative appeal is triggered but no later than:
 - 1. Three business days after the right to an administrative appeal is triggered, if the period during which the appellant may request an administrative appeal is less than 15 days; or
 - 2. Ten business days after the right to an administrative appeal is triggered, if the period during which the appellant may request an administrative appeal is 15 days or more.

3.130.020 Timely and Adequate Notification of Right to Appeal Required.

- A. Timely and Adequate Notification Required. When there is a right to appeal an administrative act through an administrative appeal, the bureau, department or

office must provide timely notice to [the](#) appellant in accordance with Subsection 3.130.020 B.

B. Form and Content of the Notice. An adequate notice must:

1. Be in writing;
2. Provide a short, plain statement describing the underlying administrative act and the basis for the administrative act, including citation to the applicable Code provision or rule;
3. Explain any right to request an administrative appeal, including:
 - a. citation of the applicable Code provision or rule providing the right to appeal;
 - b. the time limit for requesting an administrative appeal, specifying calendar or business days;
 - c. the method for requesting an administrative appeal, including a City address and phone number;
 - d. the cost, if any, for requesting an administrative appeal, including accepted payment methods and whether there is a low-income fee waiver; and
 - e. disclosure of whether effect of administrative act will be stayed pending resolution of the requested administrative appeal.

C. ~~A bureau, department or office~~[The City Administrator](#) may adopt a rule specifying when and how notice of the right to request an administrative appeal will be provided ~~so long as it is consistent with Subsections A and B of this Section 3.130.020.~~

Chapter 3.131 New Portlanders Policy Commission

3.131.010 Mission.

3.131.020 Membership and Staffing.

3.131.030 Purpose.

3.131.040 Organization and Meetings.

~~(Chapter added by Ordinance 187805; effective July 8, 2016.)~~

3.131.010 Mission.

There is established in the City ~~of Portland~~ a New Portlanders Policy Commission. The New Portlanders Policy Commission ~~shall~~will advise the City on policies and practices to integrate immigrant and refugee communities' voices and needs into the provision of City services, City decision-making and civic engagement in Portland, and to seek constructive relationships with each member of Council and the ~~City~~ Auditor.

3.131.020 Membership and Staffing.

The Commission ~~shall~~will consist of 25 voting members. All members ~~shall~~will serve without compensation from the City. Appointments to serve on the Commission are for staggered terms of three years. No member may serve more than two 3-year terms. The ~~City Administrator~~Commissioner(s) in Charge of the New Portlanders Policy Commission recommends, the Mayor nominates, and the Council approves members to the Commission. Members ~~shall~~will be appointed to provide representation from a reasonably broad spectrum of immigrant and refugee communities, striving to include a range of areas of expertise, advocacy experience, community involvement, profession, education, race, ethnicity, gender, gender identity, sexual orientation, national origin, age, religion and geographic identification.

Members must live, work, worship or be enrolled in school within the ~~Ceity~~ City of Portland and/or volunteer for a nonprofit within the ~~Ceity~~ City of Portland. If any member of the Commission is absent more than three regularly scheduled meetings of the Commission during any 12 month period, without having notified the Co-Chairs in advance of such absence, such member ~~shall~~will be deemed to have resigned from the Commission. The member's position ~~shall~~will ~~thereafter become~~be vacant. The Mayor may remove a member from the Commission at any time, with the recommendation of the ~~City Administrator~~Commissioner in Charge. ~~City Elected Officials may appoint City bureau staff to the Commission as non-voting members.~~

Staffing for the Commission ~~shall~~will be provided, subject to the annual City Budget process.

3.131.030 Purpose.

The purpose of the New Portlanders Policy Commission is to:

- A. Review, develop, evaluate and refine policy and practice recommendations for improving immigrant and refugee community integration in all City activities.
- B. Facilitate constructive working partnerships between City leaders and newcomer community leadership.

- C. Provide a forum for setting integration goals between ~~City~~ bureaus and community organizations.
- D. Provide technical support and policy advice to ~~City~~ Council offices and ~~City~~ bureaus.
- E. Serve as a consultant and advocate to local, state and federal agencies on policies impacting immigrant and refugee communities, as capacity allows.
- F. Provide a report to ~~City~~ Council on policy and practice outcomes on an annual basis.
- G. Engage in the City's annual budget process.

3.131.040 Organization and Meetings.

The Commission ~~shall~~will adopt bylaws and rules of procedure, and specify procedures for public testimony. The Commission ~~shall~~will elect each year a Chair or Co-Chairs and such other officers as the Commission may from time to time establish. The Commission ~~shall~~will meet at least quarterly, and may meet more often. The Commission Chair(s), in consultation with the ~~City Administrator~~Commissioner-in-Charge and the Director of the Bureau staffing the New Portlanders program, or their designee, ~~shall~~will set the agenda for Commission meetings.

Chapter 3.132 Community Involvement Committee for Legislative Projects Under the Comprehensive Plan

3.132.010 Purpose.

The Community Involvement Committee (CIC), an independent advisory body, is charged with reviewing, commenting and advising City staff on the community involvement elements of legislative projects that implement Portland's Comprehensive Plan. The Committee will:

- A. Recommend changes to and assessments of ongoing and project-specific community involvement practices to bring them closer into alignment with the Comprehensive Plan Community Involvement goals and policies.

- B. Approve and update the Community Engagement Manual over time to reflect emerging best practices.

3.132.020 Membership, Meetings, and Organization.

~~The Community Involvement Committee members shall be appointed by the Commissioner in Charge of the Bureau of Planning and Sustainability and confirmed by the City Council.~~ The Committee will consist of at least 5 and no more than 12 members. The appointed membership ~~shall~~ will be broadly representative of geographic areas and interests and from a reasonably broad spectrum of lived experience, particularly in under-served and under-represented communities. Members must live, work, worship or be enrolled in school within the City ~~of Portland~~ and/or volunteer for a nonprofit within the City ~~of Portland~~.

- A. Appointments and Terms. ~~The Community Involvement Committee members are appointed by the Mayor and confirmed by the Council. The Commissioner in Charge of the Bureau of Planning and Sustainability shall appoint members of the Community Involvement Committee.~~ Appointment to the Community Involvement Committee ~~shall be~~ is for a three-year term, renewable for a second term. If a position is vacated during a term, the ~~Mayor Commissioner in Charge of the Bureau~~ shall may appoint a member to serve for the unexpired term. Members appointed to the Community Involvement Committee serve at the pleasure of the ~~Commissioner in Charge of the Bureau of Planning and Sustainability~~ Mayor. Members of the Committee may be dismissed at the discretion of the ~~Commissioner in Charge~~ Mayor.
- B. Meetings, Officers, and Subcommittees.
1. The Community Involvement Committee ~~shall~~ will meet at least five times yearly and as otherwise necessary to conduct its business. Meetings ~~shall~~ will be conducted in accordance with bylaws adopted by the Director of the Bureau of Planning and Sustainability.
 2. The Community Involvement Committee may divide its members into subcommittees which are authorized to act on behalf of the committee for an assigned purpose, such as gathering information.
- C. Attendance. Members of the Community Involvement Committee are expected to attend each meeting of the committee. The ~~Commissioner in Charge~~ Mayor may replace any member who accrues unexcused absences from two or more consecutive meetings or more than 50 percent of the meetings in any year.
- D. Compensation. Community Involvement Committee members ~~shall~~ serve without compensation.

Chapter 3.134 Office of the Portland Children's

Levy

3.134.010 Creation, Organization, and Purpose.

3.134.020 Director's Powers and Duties.

3.134.030 Duration and Dissolution.

(Chapter added by Ordinance 189192, effective November 9, 2018.)

3.134.010 Creation, Organization, and Purpose.

There is established the Office of the Portland Children's Levy. The Office of the Portland Children's Levy ~~will~~shall consists of the Director and such other employees as the ~~Council~~City Administrator may provide. The Director ~~will~~shall report to the ~~Commissioner in Charge~~City Administrator, or designee. The purpose of the Office of the Portland Children's Levy is to administer the Children's Investment Fund in accordance with the current measure enacted by voters of the City ~~of Portland,~~
~~Oregon.~~

3.134.020 Director's Powers and Duties.

The duties of the Director of the Office of the Portland Children's Levy include, but are not limited to:

- A. Overall administration of the Office and supervision of its staff;
- B. Implementing the policy directives of the City Council, administrative directives of the ~~Commissioner in Charge~~Mayor and City Administrator, and the tax levy approved by voters to fund the Children's Investment Fund;
- C. Proposing policies and practices to achieve the purpose of the Office, and adopt procedures and forms to assist in implementing City policies.

3.134.030 Duration and Dissolution.

The Office of the Portland Children's Levy ~~will~~shall remain in existence so long as the voters renew the Children's Investment Fund and associated tax levy. In the event the tax levy is not renewed by voters, the Office may exist thereafter only for such reasonable time as is necessary for the orderly closing of affairs of the Children's Investment Fund.

Chapter 3.135 Independent District Commission

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~~City Administrator staffs the Independent District Commission and may contract with experts as appropriate. ~~†~~Staff assigned by the ~~Office of Management and Finance~~City Administrator provides notice of Commission meetings, assists with the development and management of public hearings, and helps draft key documents.