

## Exhibit B

# Title 14 Public Order and Police

## Chapter 14A.10 Definitions

### 14A.10.010 Definitions.

Unless otherwise defined in this Code, terms used in this Chapter have the meanings given to them in the Oregon Revised Statutes (ORS) 2024 Edition. The following definitions apply throughout Title 14 in its entirety, except as otherwise provided:

**A. Alcohol, alcoholic beverage, and/or alcoholic liquor** means any liquid or solid containing more than one-half of one percent alcohol by volume and capable of being consumed by a human being.

**B. Bicycle** means any type of vehicle that is designed:

1. To be operated on the ground or surface on one or more wheels;
2. To have a seat or saddle for use of the rider; and
3. To be propelled exclusively by human power.

This definition does not include wheelchairs or similar types of conveyances.

**C. Chief of Police** means the Commanding Officer of the police force empowered to direct the police work of the City, or lawfully appointed subordinate of the Chief of Police acting under the Chief of Police's orders.

**D. City Engineer** means the duly appointed City Engineer or lawfully appointed subordinate of the City Engineer acting under the City Engineer's orders.

**E. City Traffic Engineer** means the duly appointed City Traffic Engineer or lawfully appointed subordinate of the City Traffic Engineer acting under the City Traffic Engineer's orders.

**F. City property** means any property including but not limited to parks, rights of way, easements, buildings, or other land or physical structures owned or managed by the City.

**G. Conducting business** means the act of selling services or edible or non-edible items for immediate delivery.

**H. Crosswalk** means whether marked or unmarked, any portion of a roadway at an

intersection or elsewhere, expressly for pedestrian crossing, as defined in ORS 801.220.

**I. Firearm** means a pistol, revolver, gun, rifle, or other mechanism, including a miniature weapon, which projects a missile or shot by force of gunpowder or any other explosive, by spring or by compressed air.

**J. Minor** means a person under 18 years of age.

**K. Motor vehicle or vehicle** a means of conveyance that is self-propelled or designed for self-propulsion.

**L. Park** means any publicly or privately owned real property, and the buildings, structures and facilities thereon, placed under the jurisdiction of Portland Parks and Recreation for park or recreational purposes, and includes all land granted to the City for such purposes.

**M. Police officer** means a member of the Oregon State Police, sheriff, constable, marshal, and officer of the Portland Police Bureau.

**N. Possess** means to have physical possession or otherwise to exercise dominion or control over property.

**O. Public place** means a publicly or privately owned place to which the general public has access and may include but is not limited to public property and areas of private property open to the public, such as spaces within apartment houses and hotels not constituting rooms or apartments designed for actual residence, schools, places of amusement, parks, playgrounds, and premises used in connection with public passenger transportation.

**P. Public property** means any property including but not limited to parks, rights of way, easements, buildings, or other land or physical structures owned or managed by the City or other governmental agency.

**Q. Public right-of-way** means any thoroughfare or area intended, designed, or used for vehicular or pedestrian traffic.

## **Chapter 14A.20 Procedures**

### **14A.20.010 General Purposes of Title.**

The general purposes of the provisions set forth in Title 14 are to prevent and prohibit conduct that unjustifiably inflicts or threatens harm to individual or public interests, to safeguard conduct that is without culpability from condemnation as criminal, and to provide fair warning of the nature of the conduct declared to constitute an offense.

### **14A.20.020 Principles of Construction.**

The provisions embodied in Title 14 must be construed according to the plain meaning of their terms, but when the language is susceptible of differing constructions, the language must be interpreted to further the general purposes stated in this Chapter and of any special purposes established in the particular provision involved and will not contradict state or federal law. Any discretionary powers conferred by this Title will be exercised to further the general purposes stated here.

#### **14A.20.030 Constitutionality.**

If any Section, Subsection, sentence, clause, or phrase of this Title is for any reason held to be invalid or unconstitutional, such decision will not affect the validity of the remaining portions of this Title. If for any reason any portion of this Title should be declared invalid or unconstitutional, then the ordinance or ordinances in effect prior to the adoption of the invalid provisions will be reinstated and remain in full force and effect.

#### **14A.20.040 Consistency with State Criminal Law.**

This Title must be construed so as to render it consistent with state criminal law, and any procedures or defenses made available in the prosecution of the same or similar offenses under state criminal law will apply in prosecutions under this Title.

#### **14A.20.050 Prohibited Acts Generally.**

**A.** The doing of any act or thing prohibited or the failing to do any act or thing commanded to be done in this Title within the corporate limits of the City and within such other areas as may be specified in this Title is hereby declared to be an offense against the public peace, safety, health, morals, and general welfare of the people of the City.

**B.** Any act or omission made unlawful under this Title will include causing, allowing, permitting, aiding, abetting, suffering, or concealing any such act or omission.

#### **14A.20.060 Penalty for Violation.**

Unless a different penalty is specifically provided, any violation of any provision of this Title will upon conviction be punished by a fine of not more than \$500, or by imprisonment of not more than six months, or by both. However, no greater penalty may be imposed than allowed under Oregon law.

#### **14A.20.070 Claims for Rewards.**

Each claim for a reward offered by this Code must be made in writing by the claimant or the claimant's authorized representative and filed with the Auditor within 60 days after conviction of the accused in the Circuit Court or, if there has been an appeal, when the judgment of conviction becomes final. If two or more persons are entitled to the same reward, it must be prorated among them. It will be the duty of the Chief of Police to fully

investigate all claims for reward and report the results of the investigation to the City Attorney. The report will include copies of all police reports and records pertaining to the case out of which the claim arose, the court disposition, and a statement of facts or circumstances showing why the claimant is or is not entitled to payment of the reward. The City Attorney will examine the record and report findings and conclusions to the Council, together with the report of the Chief of Police. If the arrest was made by any law enforcement agency other than the Portland Police Bureau, a report of that agency must be obtained and submitted to the Council, along with the other reports required herein. The address of the claimant will not be made public unless necessary to the enforcement of the law.

#### **14A.20.080 Restrictions on Rewards.**

**A.** A reward under the provisions of this Code may not be paid to any United States, state, county, or municipal officer or employee other than a sheriff as outlined in ORS 206.330.

**B.** Bounty hunters are not entitled to rewards under this Chapter.

#### **14A.20.090 Council Decisions on Rewards Final.**

The action of the Council will be final and binding upon any and all persons claiming a reward provided for herein, and the Council will be the final arbiter in determining the rights, if any, of respective claimants.

#### **14A.20.100 Ineligibility of Police for Rewards.**

No member of the Portland Police Bureau may for their own benefit under any pretense whatever, receive or share in any present, fee, gift, reward or emolument for public service other than the regular salary and pay except by the consent of the City Council.

### **Chapter 14A.30 Miscellaneous Acts of Misconduct**

#### **14A.30.010 Unlawful Noise Disturbance.**

It is unlawful to make any excessive, unreasonable, or unusually loud sound which disturbs the peace and quiet of any neighborhood or which injures or endangers the comfort, repose, health, peace, or safety of any person.

#### **14A.30.020 Unlawful Operation of Sound Producing Equipment.**

**A.** It is unlawful to operate or use or permit the use of any sound producing equipment:

1. Between the hours of 10:00 p.m. and 7:00 a.m. so as to be plainly audible within any dwelling unit which is not the source of the sound; or

2. While on public property so as to be plainly audible 100 feet or more from the device.

B. Sound producing equipment includes but is not limited to any radio, television set, musical instrument, phonograph, loudspeaker, bell or chime.

#### **14A.30.030 Unauthorized Use of a Police Vehicle.**

It is unlawful for any person other than a police officer or designee to possess or operate a vehicle marked or identified by the word "police" or any other marking, insignia, or equipment identifying it as a police vehicle.

#### **14A.30.040 Unlawful Use of Badges.**

It is unlawful for any person not a regular member of the police force of the City to use in any manner a City police officer's badge, or any replica or imitation thereof, except by special permission of the Chief of Police.

#### **14A.30.050 Tampering with Animals Used for Law Enforcement Purposes.**

It is unlawful for any person to torture, torment, beat, kick, strike, choke, cut, stab, stone, shoot, mutilate, injure, disable, kill, or tamper with any animal while it is being caged, kenneled, transported, exhibited, exercised, or used in discharging or attempting to discharge any lawful duty or function or power of office, by any police officer or their representative, for any police agency.

#### **14A.30.060 Unlawful Possession or Use of Devices Used to Open Coin Boxes.**

It is unlawful for any unauthorized person to have in their possession or use any tool, key, implement, or device designed for forcing, breaking, or otherwise gaining entry to a pay telephone coin box, coin vending machine, parking meter or other coin-operated machine or device.

#### **14A.30.070 Unlawful Transfer of a Recreational Vehicle.**

A. It is unlawful to sell, lease, rent, loan, donate or otherwise transfer physical possession of a recreational vehicle that:

1. Contains a wastewater system or fuel system that leaks wastewater or fuel; or
2. Contains a wastewater system or fuel system that is damaged in a manner that would cause a reasonable person to conclude that the damaged wastewater system or fuel system could not operate normally without leaking wastewater or fuel.

**B.** The provisions of Section 14A.30.070 do not apply to:

1. Transfers of recreational vehicles to repair facilities that are registered to do business in the State of Oregon or vehicle dismantlers certified in accordance with ORS 822.110;
2. Transfers of recreational vehicles to tow vehicle operators for the purpose of transferring recreational vehicles to repair facilities that are registered to do business in the State of Oregon or vehicle dismantlers certified in accordance with ORS 822.110;
3. Transfers of recreational vehicles to repair facilities or dismantlers located outside of the City;
4. Transfers of recreation vehicles to a federal agency or a public body as defined by ORS 174.109; or
5. Transfers of recreational vehicles by lawful repossession, court order, administrative order, operation of law, governmental action.

**C.** Definitions:

1. As used in this Section, **fuel** means any gas or liquid used to assist in propulsion, cooling, lubrication, environmental control, refrigeration, or cooking.
2. As used in this Section, **fuel system** means any system designed to contain or convey fuel.
3. As used in this Section, **leak** and **leaking** mean a release of any fuel or wastewater from a wastewater system or fuel system in a manner inconsistent with the original recreational vehicle manufacturer's design.
4. As used in this Section, **recreational vehicle** means a recreational vehicle as defined by Portland City Code Section 16.90.290.
5. As used in this Section, **transfer** means any conveyance of a recreational vehicle from the transferor to the transferee with the consent of the transferee.
6. As used in this Section, **wastewater** means any sewage or liquid wastes, including kitchen, bath, toilet, and laundry wastes.
7. As used in this Section, **wastewater system** means any system designed to contain or convey wastewater.

**14A.30.080 Unlawful Street Takeover and Unlawful Staging of a Street Takeover Event.**

**A.** For the purposes of this Section, the following definitions apply:

**1. Highway** means the entire width of a public right-of-way when any portion thereof is intended for motor vehicle movement or motor vehicle access to abutting property.

**2. Public place** means an area, whether publicly or privately owned, generally open to the public and includes, without limitation, the grounds surrounding buildings or dwellings, streets, sidewalks, bridges, tunnels, alleys, plazas, parks, driveways, and parking lots.

**3. Motor vehicle** has the meaning provided by Subsection 14A.10.010 K.

**4. Unlawful street takeover event** means an activity that is:

a. Unpermitted;

b. Preplanned or contemporaneously coordinated by two or more persons; and

c. Involves one or more persons demonstrating, exhibiting, or comparing the maneuverability or power of one or more motor vehicles in a curved direction, in a circular direction, or around corners, including but not limited to by breaking traction in a curved or circular direction or around corners.

**5. Unpermitted** means without the express written permission of the owner of private property on which the activity occurs or without authorization by the Portland City Code, ordinance, permit or other authorization by a governmental body with legal authority to authorize the activity.

**B.** A person commits the offense of an unlawful street takeover if, in a public place or upon a highway, the person knowingly operates a motor vehicle while engaged in an unlawful street takeover event.

**C.** A person commits the offense of unlawful staging of a street takeover event if, in a public place or upon a highway, the person knowingly uses a motor vehicle or other obstacle to create a physical barrier to impede an intersection, bridge, public right-of-way, or other public place or highway to create a location or physical opportunity for an unlawful street takeover event.

**D.** The court may impose a sentence of up to 30 days imprisonment and a fine not to exceed \$500 under this Section for unlawful street takeover or unlawful staging of a street takeover event; provided, however, that a person charged the first time for either offense may be provided the opportunity to participate in a diversion program approved by the District Attorney, unless the conduct results in physical injury as defined by ORS 161.015 or death to a person other than the defendant.

**E.** Any peace officer as defined by ORS 161.015(4) may, without prior notice, order a motor vehicle towed as evidence of a crime, for community caretaking, or for any other lawful purpose, without respect to the person's ownership of the motor vehicle,

when the peace officer has probable cause to believe the person operating or in possession or control of the motor vehicle has committed the offense of unlawful street takeover or unlawful staging of a street takeover event. The owner of a motor vehicle that has been towed under this Section may seek the return of the motor vehicle as provided by law.

## **Chapter 14A.40 Interference With Persons And Sexual Misconduct**

### **14A.40.010 Interfering with Privacy.**

- A.** It is unlawful for any person to look through a window, transom, or door into the dwelling of another with the intent to interfere with the privacy of an occupant.
- B.** As used in this Section, **dwelling** includes a building or part of a building in which a person temporarily lodges.

### **14A.40.020 Offensive Physical Contact Prohibited.**

- A.** No person may cause or attempt to cause another person reasonably to apprehend that they will be subjected to any offensive physical contact either to their person or to personal property in their immediate possession.
- B.** Violation of this Section is subject to a maximum \$500 fine and/or 10 days in jail.
  - 1.** In lieu of the penalty provided for above, a judge may sentence a person found in violation of this Section to community service for such period as is provided for misdemeanors pursuant to ORS 137.126 to ORS 137.129.

### **14A.40.030 Indecent Exposure.**

It is unlawful for any person to expose their genitalia while in a public place or place visible from a public place, if the public place is open or available to people regardless of sex. This prohibition does not apply to conduct protected under ORS 109.001, which safeguards the right to breastfeed in public.

### **14A.40.040 Loitering to Solicit Prostitution.**

- A.** For the purposes of this Section, the following definitions apply:
  - 1. Prostitution** means engaging in, offering, or agreeing to engage in sexual conduct or sexual contact in return for a fee or paying, offering, or agreeing to pay a fee to engage in sexual conduct or sexual contact.
  - 2. Sexual conduct** means sexual intercourse or deviate sexual intercourse.
  - 3. Sexual contact** means any touching of one person's sexual organs or other



intimate parts used with the intention of touching another person not married to the actor, for the purpose of arousing or gratifying the sexual desire of either party.

**B.** It is unlawful for any person to loiter in or near any street or public place in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting, or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested are that the person repeatedly contacts, stops or attempts to stop pedestrians, or repeatedly stops or attempts to stop motor vehicle operators or passengers by hailing them or gesturing to them.

#### **14A.40.050 Unlawful Prostitution Procurement Activities.**

**A.** As used in this Section, **prostitution** means that unlawful conduct defined in Section 14.A40.040 of this Code. As used in this Section, **prostitution procurement activity** means any conduct by any person that constitutes a substantial step in furtherance of an act of prostitution. Such activity includes, but is not limited to, lingering in or near any street or public place, repeatedly circling an area in a motor vehicle, or repeatedly beckoning to, contacting, or attempting to stop pedestrians or motor vehicle operators.

**B.** It is unlawful for any person to engage in any prostitution procurement activity with an intent to induce, entice, solicit, procure, locate, or contact another person to commit an act of prostitution.

## **Chapter 14A.50 Conduct Prohibited on Public Property**

#### **14A.50.010 Alcohol and Controlled Substances on Public Property and Public Rights-of-Way.**

**A.** No person may consume alcoholic liquor, as defined in ORS 471.001, or a controlled substance, as defined in ORS 475.005, on public property, streets, sidewalks, or any other public rights-of-way.

**B.** No person may possess on any public property, street, sidewalk, or other public right-of-way, any bottle, can, or other container containing alcoholic liquor if it has been opened, its seal broken, or its contents partially removed.

**C.** The prohibitions set forth in Subsections A. and B. of this Section do not apply to:

- 1.** The consumption of alcoholic liquor in sidewalk cafes that have obtained permits pursuant to Chapter 17.25 of this Code.
- 2.** The use of alcohol in street areas sanctioned by a community event street closure—alcohol allowed permit issued by the Bureau of Transportation pursuant

to Chapter 17.44 of this Code, contingent upon adherence to all relevant Oregon Liquor Control Commission guidelines.

**3.** The consumption of medications, as directed by a prescriber, as defined in ORS 414.351.

**D.** For purposes of this ordinance, **consume** denotes the act of imbibing, injecting, ingesting, inhaling, or otherwise introducing a substance into the human body.

**E.** The restrictions on consuming controlled substances outlined in this chapter will take immediate effect if any of the following occurs:

- 1.** The State of Oregon passes a law granting local jurisdictions the power to regulate public consumption of controlled substances;
- 2.** A court with appropriate jurisdiction determines that cities can regulate the public consumption of such substances within their boundaries; or
- 3.** A regulatory body of the State of Oregon identifies or drafts regulations allowing implementation.

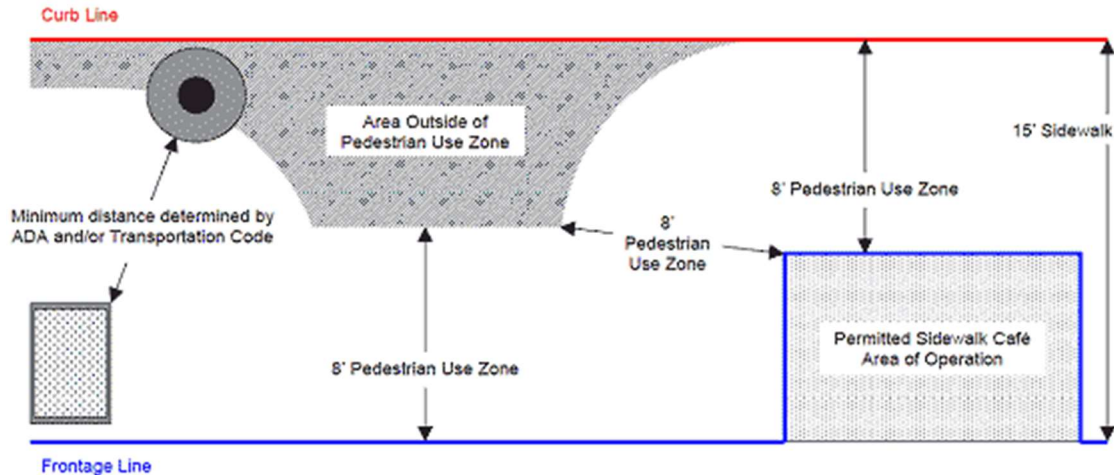
#### **14A.50.030 Sidewalk Use.**

**A.** For the purposes of this Section, the following definitions apply:

**1. Pedestrian** means a person who is on foot or assisted by a mobility device and able to move immediately to accommodate other sidewalk users.

**2. Frontage line**, on sidewalks bounded by a street, means the edge of the public sidewalk opposite the curb where the area dedicated to sidewalk use by the City meets either private property or public property that is not dedicated to sidewalk use. On sidewalks not bounded by a street and lying between public property and private property, the frontage line is the edge of the public sidewalk bounded by private property. On sidewalks not bounded by a street and bordered on both sides by public property or bordered on both sides by private property, the frontage line is the west or north lateral edge of the sidewalk.

**3. Pedestrian use zone** means the surface of a public sidewalk extending from the frontage line of the sidewalk and any fixture or use authorized or allowed by City permit or regulation that is centered on the frontage half of the sidewalk. Except as otherwise established and marked by the Director of the Bureau of Transportation, the pedestrian use zone extends eight feet on sidewalks more than ten feet wide and six feet on sidewalks ten feet wide or less. At street corners, the pedestrian use zone encompasses the entire area bounded by the extended frontage lines and the streets.



**4. Mobility device** means a wheelchair, crutch, cane, walker, or device that functions similarly to allow an injured or disabled person increased mobility for sidewalk travel.

**B.** Improper use of sidewalk in a high pedestrian traffic area – use of pedestrian use zone by a person who is not a pedestrian:

1. Between 7:00 a.m. and 9:00 p.m., only pedestrians may use the pedestrian use zone in the high pedestrian traffic areas described in Subsection F.

2. The prohibition in Subsection B.1. does not apply to:

- a. Persons who use a conveyance to move freight or merchandise.
- b. Persons crossing the sidewalk pedestrian zone in a conveyance directly to or from an entrance.

3. It is an affirmative defense to a prosecution under this Subsection that the behavior occurred within one foot of the curbside boundary of the pedestrian use zone, that the boundary of the zone was not marked, and the person believed in good faith the person was not in the pedestrian use zone.

**C.** Improper use of sidewalk in a high pedestrian traffic area - placing objects in pedestrian use zone: Between 7:00 a.m. and 9:00 p.m., in the high pedestrian traffic areas described in Subsection F., unless authorized or allowed by ordinance, permit or a regulation issued by the Director of the Bureau of Transportation, no person may deposit, install, place, fix or leave any object or item in, on or above a pedestrian use zone except:

- 1. Personal baggage or luggage that is within arm's reach of the pedestrian possessor; or
- 2. Merchandise in course of receipt or delivery that presents a continuous vertical

rise of at least 36 inches to the cane of vision-impaired pedestrians, unless that merchandise is permitted to remain upon the sidewalk for a period longer than 2 hours. The vehicle in which merchandise is delivered is subject to all parking regulations as described in Portland City Code Title 16.

**3.** It is an affirmative defense to a prosecution under this Subsection that the behavior occurred within one foot of the curbside boundary of the pedestrian use zone, that the boundary of the zone was not marked, and the person believed in good faith the object or item was not in the pedestrian use zone.

**D.** Improper use of sidewalk in a high pedestrian traffic area – mismanaging a dog: Between 7:00 a.m. and 9:00 p.m., on all parts of sidewalks in the high pedestrian traffic areas described in Subsection F.:

**1.** All dogs must be in hand or, if leashed, the dog's neck must be within two feet of the handler;

**2.** A dog may be present in a pedestrian use zone in the high pedestrian traffic areas described in Subsection F. only if under the control of a pedestrian;

**3.** A person who brings a dog onto a public sidewalk or who possesses or controls the dog is responsible for compliance with this Subsection. This Subsection does not apply to police animals.

**4.** It is an affirmative defense to a prosecution under Subsection D.2. that the dog was within one foot of the curbside boundary of the pedestrian use zone, that the boundary of the zone was not marked, and the person believed in good faith the dog was not in the pedestrian use zone.

**E.** Improper use of sidewalk – failing to allow use by a disabled person: On all sidewalks at all times, at the reasonable request of a person using a mobility device or relying for guidance on a cane, helper or guide animal, all persons must immediately yield use of the sidewalk to allow a reasonable opportunity for passage.

**F.** High pedestrian traffic areas:

**1.** The Downtown Area, defined as the public sidewalks in the area bounded by the west bank of the Willamette River, I-5 from the west bank of the Willamette River to its junction with I-405, I-405, the north edge of the north sidewalk of NW Irving St and a line extended from the northeast corner of the north sidewalk of NW Irving St to the west bank of the Willamette River;

**2.** The Rose Quarter / Lloyd Area, defined as the public sidewalks in the area bounded by N Interstate Ave, the north edge of the north sidewalk of Broadway St, NE 16th Ave and Northeast Lloyd Blvd.

**G.** Exceptions.

**1. The prohibitions in this Section do not apply to a person:**

- a.** unable to comply due to suffering a medical emergency;
- b.** unable to comply due to physical or mental incapacitation;
- c.** acting as authorized or allowed by ordinance, permit or a regulation issued by the City Traffic engineer;
- d.** performing a City-approved public safety, maintenance or construction function; or
- e.** participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to and in compliance with a street use or other applicable permit.

**2. The prohibitions in Subsection B. do not apply to a person:**

- a.** sitting on a chair or bench located in a pedestrian use zone supplied or permitted by a public agency;
- b.** waiting in line for goods or services unless the person refuses to comply with a lawful order of a peace officer to form the line in a way that moderates impact on passage along the sidewalk; or
- c.** performing street music while complying with the Street Musician Partnership Agreement.

**3. The prohibitions on this Section do not apply to pedestrian plazas as defined under Chapter 17.43 of this Code.**

**H.** No person may be cited under this Section unless the person engages in prohibited conduct after having been notified in writing by an Oregon peace officer that the conduct violates this Section.

**I.** The prohibitions in this Section do not apply when they are waived by permit.

**J.** Nothing in any of the exceptions listed in Subsection G. will be construed to permit any conduct which is prohibited by Section 14A.50.035 - Pedestrians.

**K.** Nothing in this Section will be construed to permit conduct which is prohibited by a lawful order restricting the time, place or manner of speech.

**L.** An object or deposit that is on or above a sidewalk in violation of this Section is hereby declared to be a public nuisance. The Director of the Bureau of Transportation or a police officer may summarily abate any such nuisance, or it may be abated as set forth in Chapter 29.20 of this Code.

**M.** Violation of this Section subjects a person to a maximum penalty of a \$250 fine

only.

**N.** In lieu of the penalty provided for above, a judge may sentence a person found in violation of this Section to community service for such period as is provided for violations pursuant to ORS 137.126 to ORS 137.129.

**O.** This Section does not apply to any activity otherwise made lawful.

#### **14A.50.035 Pedestrians.**

**A.** No person with the intent to interfere with free passage may block or attempt to block or interfere with any person(s) along the public sidewalks by any means, including but not limited to standing on that part of the sidewalk used for pedestrian travel or by placing any object or vehicle in such area.

**B.** No person with the intent to interfere with the free ingress to or egress from may block or attempt to interfere with or block pedestrian or vehicular entrances to public or private property abutting the public sidewalk.

**C.** Violation of this Section subjects a person to a maximum penalty of a \$250 fine only.

**D.** In lieu of the penalty provided for above, a judge may sentence a person found in violation of this Section to community service for such period as is provided for misdemeanors pursuant to ORS 137.126 to ORS 137.129.

**E.** This Section does not apply to any activity otherwise made lawful.

#### **14A.50.040 Conducting Business on City Property or Public Rights of Way.**

It is unlawful for any person to sell or attempt to sell any merchandise or services in or upon any sidewalk, street, alley, lane, public right-of-way, or under any bridgeway or viaduct:

**A.** Within the Central City Plan District as defined in Chapter 33.510 of this Code;

**B.** With 250 feet of any:

**1.** Public library grounds;

**2.** Public park grounds without a permit from the Bureau of Parks and Recreation;

**3.** Grounds or stadium while athletic games are being played;

**4.** Public or private school grounds during the hours of regular school classes or sessions; or

5. Vendor already parked or stopped, or any commercial establishment, while open, if the other vendor or establishment offers similar merchandise; unless specifically authorized by ordinance, permit, or other valid City approval. Possession of a valid City business license does not constitute "other valid City approval" within the meaning of this Section.

#### **14A.50.050 Erecting Permanent or Temporary Structures on Public Property or Public Rights-of-Way.**

**A.** It is unlawful to erect, install, place, leave, or set up any type of permanent or temporary fixture or structure of any material(s) in or upon non-park public property or public right-of-way without a permit or other authorization from the City.

**B.** In addition to other remedies provided by law, such an obstruction is hereby declared to be a public nuisance. The City Engineer, City Traffic Engineer, or Chief of Police may summarily abate any such obstruction, or the obstruction may be abated as prescribed in Chapter 29.60 of this Code.

**C.** The provisions of this Section do not apply to merchandise in the course of lawful receipt or delivery, unless that merchandise remains upon the public right-of-way for a period longer than two hours, upon which the provisions of this Section apply.

**D.** The provisions of this Section do not apply to depositing material in public right-of-way for less than two hours, unless the material is deposited with the intent to interfere with free passage or to block or attempt to block or interfere with any persons(s) using the right-of-way.

**E.** The provisions of this Section do not apply to depositing material necessary to sleeping, or keeping warm, or dry as defined by ORS 195.530, consistent with Sections 14A.50.140, 14A.50.150, and 14A.50.160 of this Code.

#### **14A.50.060 Resale of Tickets to Events at Municipal Facilities at a Premium Price Prohibited.**

Tickets to all events at municipally owned facilities, including the Memorial Coliseum, PGE Park, and the public plaza at the Rose Quarter, and tickets to all events at the Rose Garden Arena other than season tickets, must have printed thereon the retail price thereof. It is unlawful for any person to sell or offer for sale any ticket for an event at any municipally owned facility, or for any event at the Rose Garden Arena, at a price greater than the retail price printed thereon or at a price greater than the original retail price. Notwithstanding the above, this Section may not be construed to prohibit service fees or charges imposed or collected by ticket outlets where service fees or charges are specifically authorized by the management of the facilities.

#### **14A.50.070 Advertising on Streets.**

**A.** It is unlawful for any person to scatter notices or advertisements on any street

right-of-way or to post a notice or advertisement anywhere on a street right-of-way or upon the exterior of a public building.

**B.** It is unlawful for any person whose name appears upon, or who is responsible for posting, any notice or advertisement posted in violation of this Section to permit the notice or advertisement to remain posted after having received a request to remove it.

**C.** Any notice or advertisement found in violation of this Section may be removed by a peace officer.

#### **14A.50.110 Misuse of a Public Restroom.**

**A.** This Section applies to permanent and temporary structures erected or placed for use as a public restroom.

**B.** It is unlawful to stand, climb, sit upon, or lay down on any fixture or floor located inside of or at the entrance of any restroom located in a public building or on public property, unless that fixture or floor is intended to be used for standing, climbing, sitting or lying upon.

**C.** It is unlawful for two or more persons to occupy any restroom that is specifically designed for use by only one person and that is located in a public building or on public property, unless one of those persons is assisting a handicapped person or persons, a child or children under 12 years of age, or an elderly person, or persons in need of assistance.

**D.** It is unlawful to interfere with any attendant in the discharge of their duties within any restroom located in a public building or on public property.

**E.** It is unlawful for any male person to enter a restroom marked "Women." This Section does not apply to a male child with his mother or female guardian, or an authorized person in the discharge of his regular duties.

**F.** It is unlawful for any female person to enter a restroom marked "Men." This Section does not apply to a female child with her father or male guardian, or an authorized person in the discharge of her regular duties.

**G.** It is unlawful for any person to engage in disorderly or disruptive conduct inside of or at the entrance to any restroom located in a public building or on public property.

**H.** The above requirements do not excuse a failure to provide reasonable and appropriate accommodations permitting all persons access to restrooms consistent with their expressed gender.

#### **14A.50.120 Misuse of a Public Drinking Fountain.**

**A.** It is unlawful to deposit material of any kind into a drinking fountain located on



public property.

**B.** It is unlawful to obstruct the flow of water or tamper in any way with a drinking fountain located on public property or right-of-way, unless permission to do so is granted by the appropriate City bureau, official, or other authorized person.

#### **14A.50.130 Misuse of Reservoirs.**

It is unlawful for any person to throw, dump, or deposit any material or substance in a reservoir maintained by the Bureau of Water Works.

#### **14A.50.140 Camping Definitions.**

As used in Sections 14A.50.150-14A.50.160:

**A. To camp or camping** means to set up, pitch, use, or occupy camp materials with intent to facilitate sleeping, storage of personal belongings, or carrying on cooking activities. **To camp or camping** does not include merely sitting with, lying by, or possessing camp materials that are stowed, disassembled, or packed in a manner that would permit them to be immediately carried or moved.

**B. Camp materials** means any tent, lean-to, shack, tarp, tarpaulin, hammock, vehicle or part thereof, bed, cot, sleeping bag, blanket, mattress, stove, burn barrel, or other structure or device intentionally used for or in furtherance of sleeping, storing personal belongings, or carrying on cooking activities.

**C. Alternate shelter** means either:

1. A publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs); or
2. Any other building, as defined in ORS 164.205(1), designed or adapted for overnight accommodation of persons in which the person has permission to sleep.

#### **14A.50.150 Camping Prohibited When Reasonable Alternate Shelter is Available.**

It is unlawful for any person to camp knowingly in or upon any public property or public right-of-way if the person has access to reasonable alternate shelter, has means to acquire reasonable alternate shelter, or has otherwise been offered and rejected reasonable alternate shelter.

#### **14A.50.160 Restrictions on Camping on Public Property and Public Rights-of-Way.**

It is unlawful for any person camping in or upon any public property or public right-of-way to recklessly:

- A.** Obstruct the pedestrian use zone, as defined in Subsection 14A.50.030 A.3. of this Code;
- B.** Obstruct access to private property or businesses adjacent to the public right-of-way;
- C.** Start or maintain any fire in or around the campsite;
- D.** Use a gas heater in or around a campsite;
- E.** Erect, install, place, leave, or set up any type of permanent or temporary fixture or structure of any material(s) in or upon public property or public right-of-way. Items such as tents and readily portable shelters are not structures for purposes of this Section;
- F.** Dig, excavate, terrace soil, alter the ground or infrastructure, cause environmental damage, or damage vegetation or trees in or around a campsite;
- G.** Place or store objects, more than two feet outside the tent or readily portable shelter;
- H.** Accumulate, discard, or leave behind garbage, debris, unsanitary or hazardous materials, sewage, drug paraphernalia, improperly disposed of syringes, or other evidence of drug use in the public rights-of-way, on City property, or on any adjacent public or private property;
- I.** Assemble, disassemble, sell, offer to sell, distribute, offer to distribute, or store three or more bicycles or two or more automobiles, a bicycle frame with the gear cables or brake cables cut or an automobile with the battery or one or more tires removed, two or more bicycles or automobiles with missing parts, or five or more bicycle or automobile parts; and
- J.** Camp on property that is posted as “no trespassing” by the City.

#### **14A.50.170 Enforcement.**

A violation of Sections 14A.50.150 or 14A.50.160 of this Code is punishable by a fine of not more than \$100 or by imprisonment for a period not to exceed seven days, or both. The District Attorney is encouraged to divert for assessment, emergency shelter or housing, or other services, in lieu of conviction, cases involving a violation of Sections 14A.50.150 or 14A.50.160 of this Code.

#### **14A.50.180 Public Environment Executive Team.**

The Public Environment Executive Team is comprised of the Mayor, City Administrator,

the Deputy City Administrators, and other executive branch employees designated by the Mayor who have responsibility for programs and services related to homelessness and unsanctioned public camping. The Public Environment Executive Team will review policy proposals related to homelessness and unsanctioned public camping. The Public Environment Executive Team will regularly report to the Mayor on legal and policy developments regarding homelessness and unsanctioned camping and will propose to the Mayor amendments to City Code based on any such developments, which the Mayor at their discretion may choose to introduce for consideration by City Council.

## **Chapter 14A.55 Parade Event Marking**

### **14A.55.010 Access to Public Property for Parade Event.**

- A.** It is unlawful to paint, tape, or otherwise mark public property or place objects in the right-of-way for the purpose of reserving space for a parade event.
- B.** City of Portland may remove unauthorized materials left on public property or the right-of-way.
- C.** Camping overnight, to reserve a space in the public right-of-way alongside the parade route, may be allowed as set forth in administrative rule. Overnight camping under this Section is a limited exception to Sections 14A.50.140, 14A.50.150, 14A.50.160, and 14A.50.030 of this Code.

### **14A.55.020 Enforcement and Notice of Violation.**

- A.** The Director of the Portland Permitting & Development, or designee, upon determining that a violation of this code or administrative rule has occurred, may issue a notice of violation by direct delivery of said notice to the violator.
- B.** The violator, upon receipt of a notice of violation, must correct the violation and pay to the City a civil penalty as set forth in Section 14A.55.030 of this Code.

### **14A.55.030 Penalties.**

Violations of this Chapter may be punishable by fines as follows:

- A.** A \$100 fine for the first violation; and
- B.** A \$500 fine for each subsequent violation.

### **14A.55.040 Administrative Review.**

A person, who is issued a notice of violation, may challenge the findings in the notice by requesting an administrative review from the Portland Permitting & Development.

### **14A.55.050 Appeals to the Code Hearings Officer.**

A determination issued pursuant to Section 14A.55.040 of this Code may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of this Code.

### **14A.55.060 Further Appeals.**

All appeals from the Code Hearings Officer's determination pursuant to Section 14A.55.050 of this Code will be by writ of review as authorized by Portland City Code Section 22.04.010 and ORS 34.010 - 34.100.

### **14A.55.070 Additional Regulations.**

The Portland Permitting & Development is authorized to promulgate administrative rules and take other actions reasonable and necessary to enforce Chapter 14A.55 of this Code.

## **Chapter 14A.60 Weapons and Explosives**

### **14A.60.010 Possession of a Loaded Firearm in a Public Place.**

**A.** It is unlawful for any person to knowingly possess or carry a firearm, in or upon a public place, including while in a vehicle in a public place, recklessly having failed to remove all the ammunition from the firearm.

**B.** It is unlawful for any person to knowingly possess or carry a firearm and that firearm's clip or magazine, in or upon a public place, including while in a vehicle in a public place, recklessly having failed to remove all the ammunition from the clip or magazine.

**C.** The following are exceptions and constitute affirmative defenses to a violation of this Section:

- 1.** A police officer or other duly appointed peace officers, whether active or honorably retired;
- 2.** A member of the military in the performance of official duty;
- 3.** A person licensed to carry a concealed handgun;
- 4.** A person authorized to possess a loaded firearm while in or on a public building under ORS 166.370;
- 5.** A government employee authorized or required by their employment or office to carry firearms;
- 6.** A person summoned by a police officer to assist in making arrests or preserving the peace, while such person is actually engaged in assisting the officer;

7. A merchant who possesses or is engaged in lawfully transporting unloaded firearms as merchandise;
8. Organizations which are by law authorized to purchase or receive weapons from the United States or from this state;
9. Duly authorized military or civil organizations while parading, or their members when going to and from the places of meeting of their organization;
10. A corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention;
11. Persons travelling to and from an established target range, whether public or private, for the purpose of practicing shooting targets at the target ranges;
12. Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition;
13. A person authorized by permit of the Chief of Police to possess a loaded firearm, clip, or magazine in a public place in the City; or
14. A security guard employed at a financial institution insured by the Federal Deposit Insurance Corporation while the security guard is on duty.

**D.** It is unlawful for any person who possesses a firearm, clip or magazine in or upon a public place, or while in a vehicle in a public place, to refuse to permit a police officer to inspect that firearm after the police officer has identified themselves as a police officer. This Section does not apply to law enforcement officers or members of the military in the performance of official duties, nor persons licensed to carry a concealed handgun, or persons authorized to possess a loaded firearm, clip or magazine while in or on a public building or court facility.

**E. Penalty.**

1. In the absence of the aggravating factors listed in Subsection 14A.60.010 E.2. of this Code, the court may impose a sentence of up to six months imprisonment and a fine not to exceed \$500 for violation of this Section.
2. When this offense is committed by carrying a loaded firearm containing ammunition that employs gunpowder as a propellant in a vehicle, including a transit vehicle, the court must impose a mandatory minimum sentence of 30 days for violation of this Section.

**14A.60.020 Discharge of a Firearm.**

**A.** It is unlawful for any person to discharge a firearm in the City or upon its boundaries.

**B. This Section does not apply to:**

1. A person discharging a firearm in the lawful defense of person or property;
2. A person discharging a firearm on a public or private shooting range, shooting gallery, or other area designed, built, and lawfully operating for the purpose of target shooting;
3. A person conducting an athletic contest who fires blank ammunition toward the sky;
4. A person authorized to fire blank ammunition as part of military or police ceremonies;
5. A person authorized by permit of the Chief of Police to discharge blank ammunition for a lawful purpose;
6. Hunter safety instructors of the Oregon State Game Commission or their pupils who are engaged in hunter safety training classes sponsored by the Commission;
7. A police officer in the performance of official duty; or
8. Employees or contractors of the Port of Portland engaged in flight safety hazard abatement at and around Portland International Airport to comply with 14 C.F.R. § 139.337.

**14A.60.030 Tear Gas and Stun Guns.**

**A. For the purposes of this Section, the following definitions apply:**

1. **Tear gas, mace, pepper mace, or any similar deleterious agent** means a sternutator, lacrimator, or any substance composed of a mixture of a sternutator or lacrimator, including, but not limited to chloroacetophenone, alpha-chloroacetophenone, phaenylchloro-methylketone, orthochloro-benzalmalononitrile, oleoresin capsicum, or any chemical or combination of chemicals, whether in liquid, solid form, or gas capable of generating offensive, noxious or suffocating fumes, gases, or vapor capable of producing temporary discomfort, permanent injury, paralysis, immobilization, tears, nausea, or other illness.
2. **Tear gas weapon** means includes but is not limited to any shell, cartridge, or bomb capable of being discharged or exploded, when the discharge or explosion will cause or permit the release or emission of tear gas or oleoresin capsicum, mace, pepper mace or other similar deleterious agent.
3. **Stun gun** means an electrical device that transmits an electrical charge designed to incapacitate humans or animals.

**B.** It is unlawful for any person, corporation, or association to offer for sale, sell, furnish, transport, carry, possess, or use, within the City limits, any tear gas weapon or stun gun. This Subsection does not apply to:

1. Police officers in the performance of their duties;
2. Members of the armed forces of the State of Oregon and the United States in the performance of their official duties;
3. Manufacturers, distributors, or commercial sellers when selling tear gas to any governmental agency for official use;
4. Manufacturers, distributors, or commercial sellers when selling tear gas to any person, corporation or association when such sale is not in violation of this Section;
5. Persons involved in the bona fide scientific, educational, or industrial use of tear gas;
6. Persons, who have not been convicted of any felony, who possess or use tear gas, provided that it is contained in a device that is commercially manufactured to dispense tear gas from an aerosol tube as a self-defense weapon, and is designed to contain not more than four fluid ounces per device; or
7. Persons, who have not been convicted of any felony, and who are 18 years of age or older who possess or use a stun gun for the purpose of self-defense.

**C.** Exemptions numbers 4., 5., and 6. of this Subsection, above, do not apply to devices that project tear gas by means of firing any type of cartridge by powder discharge, spring action, compressed air, or any other means.

**D.** It is unlawful for any person to use, or attempt or threaten to use tear gas or a stun gun against any person known to be, or who should reasonably be known to be, a police officer engaged in the performance of official duties.

#### **14A.60.040 Explosives and Bottle Bombs.**

**A.** The following definitions apply to this Section:

1. **Explosive** means any substance or material that on ignition by heat, impact, friction, or detonation will explode with such force as to injure a person or damage property in the immediate vicinity of the explosion.
2. **Bottle bomb** means any sealed device containing dry ice (CO<sub>2</sub>) or other chemically reactive substances assembled for the purpose of causing an explosion by chemical reaction.

**B.** It is unlawful for any person, other than a peace officer or member of the armed

forces of this State or of the United States acting in the performance of official duty, to possess or have under their control an explosive or bottle bomb.

**C.** This Section does not apply to the possession or use of explosives or bottle bomb by a police officer or member of the armed forces of this State or of the United States, members of regularly organized fire departments while in the performance of their official duties, or where otherwise authorized by Federal Law, Oregon Law, or this Code.

#### **14A.60.050 Endangering A Child By Allowing Access to A Firearm.**

**A.** A person commits the offense of endangering a child if a person fails to prevent access to a firearm by a minor when the person knew or reasonably should have known that a minor could gain access to the firearm under the following circumstances:

- 1.** A person possesses or controls an operable firearm, whether loaded or unloaded, within premises under the person's custody or control and a minor gains access to the firearm without the permission of the person, a parent or guardian; or
- 2.** A person possesses or controls an operable firearm, whether loaded or unloaded, within premises under the person's custody or control and a minor gains access to the firearm without the permission of the person, a parent or guardian and the minor carries the firearm off the premises.

**B.** Violation of Subsection A.1. is punishable by incarceration for not more than 10 days and a fine of not more than \$500.

**C.** Violation of Subsection A.2. is punishable by incarceration for not more than 20 days and a fine of not more than \$750.

**D.** Violation of Subsection A.2. is punishable by incarceration for not more than 30 days and a fine of not more than \$2,500 when the firearm is carried by the child off premises to any school, school-sponsored or school-related event.

**E.** Defenses: This Section does not apply if any one of the following circumstances exists:

- 1.** The minor obtains the firearm as a result of an illegal entry into any premises by any person;
- 2.** The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure from entry by the minor; or
- 3.** The firearm is locked with a device that has rendered the firearm inoperable and is designed to prevent minors and unauthorized users from firing the firearm. The device may be installed on the firearm, be incorporated into the design of the



firearm, or prevent access to the firearm.

#### **14A.60.060 Failure to Report Theft.**

**A.** Any person who possesses, owns or controls a firearm in the City must report the theft or misplacement of the firearm to the Chief of Police or designee, providing a description of the firearm including serial number, within 48 hours of knowing, or having reason to know, the firearm is stolen or cannot be located through reasonable effort.

**B.** A person who possesses, owns or controls a firearm in the City and fails to provide the serial number of the firearm when reporting the firearm is stolen or cannot be located is subject to a \$200 administrative fee.

**C.** Violation of Subsection 14A.60.060 A. of this Code is punishable by a fine of \$2,500.

## **Chapter 14A.70 Gambling, Social Games, and Unlawful Amusement Games or Concessions**

#### **14A.70.010 Definitions.**

For the purposes of this Chapter, the following definitions apply:

**A. Chain letter or pyramid scheme** includes, but is not limited to the following:

1. Any system, scheme, or device, operated by letters, circulars, cards, or other written or printed instrumentality, or orally, or by any other system, whereby it is represented that upon surrender of any sum of money or any other thing of value, a person may receive in return money or any other thing of value in an amount greater than the sum or value surrendered;
2. Receipt of money or other thing of value in a sum greater than the value of the money, or other thing of value surrendered, dependent either wholly or in part, upon that person's surrendering money or any other thing of value; or
3. Determination of when persons will receive a greater sum of money or other thing of value, effected by any system or scheme where the names of persons surrendering any sum of money or other thing of value are arranged so that the payment, donation, or contribution to them depends upon a scheme whereby their names appear at the top or other designated place upon a list according to the number order or rotation of such persons who have, or who may thereafter surrender any sum of money or other thing of value in order to participate.

**B. Contest of chance** means any contest, game, gaming schemes, or gaming device in which the outcome materially depends upon an element of chance, notwithstanding that the contestants' skill may also be a factor.

**C. Gambling** has the same definition as provided in ORS 167.117(7).

**D. Lottery** means a game in which:

1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated as winning ones;
2. The winning chances are to be determined by a drawing or by some other similar method; and
3. The holders of the winning chances are to receive something of value.

**E. Social game** means a game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from the operation of the social game.

**F. Something of value** means any money, item of value, or any form of credit or promise directly or indirectly contemplating transfer of money or thing of value or any interest.

#### **14A.70.020 Unlawful Frequenting of a Place Where Unlawful Gambling Activity is Conducted.**

It is unlawful for any person to frequent or remain at any place where unlawful gambling activity is being conducted.

#### **14A.70.030 Unlawful Chain Letter or Pyramid Scheme.**

It is unlawful for any person, whether acting as principal, agent, servant or employee to establish, maintain, conduct, manage, profit from, or operate any chain letter or pyramid scheme; or to solicit or advertise any such scheme; or to list persons who have surrendered any sum of money or any other thing of value to any such scheme. It is unlawful for any person, firm, or corporation to let, lease, or rent any real property and allow any such scheme to be established, maintained, conducted, managed or operated therein or thereon.

#### **14A.70.040 Social Games Authorization Limited.**

A social game between players in a private business, private club, or place of public accommodation is authorized only when each of the following conditions are met:

- A.** No house player, house bank, or house odds exist;
- B.** There is no house income from the operation of a social game;
- C.** The game cannot be observed from a public right-of-way;

**D.** Persons under 18 years of age are not permitted in the room or enclosure where the social game takes place;

**E.** A valid permit issued pursuant to this Chapter is conspicuously displayed in the room or enclosure where the social game takes place;

**F.** The room or enclosure where the social game takes place is open to free and immediate access by any police officer. Doors leading into the social game room must remain unlocked during all hours of operation; and

**G.** No player may bet more than \$1 in money or other thing of value in any one game, and the amount awarded the winner of a game may not exceed \$1 in money or other thing of value multiplied by the number of players in the game.

#### **14A.70.050 Social Games Permit Required.**

A permit is required for any person to conduct or permit to be conducted in any private business, private club, or place of public accommodation any social game. Any violation of the conditions set forth in Section 14A.70.040 will be considered grounds for suspension or revocation of such permit. Such permit is not subject to transfer or assignment, is not valid at any location other than the premises described therein and must be dated as of the first day of the month in which issued and will expire one year from that date.

#### **14A.70.060 Social Games Permit Application Process.**

**A.** The application for a permit to conduct any social game activity must set forth all information deemed necessary by the City Administrator consistent with the regulations provided in this Chapter, including but not limited to a description of the premises subject to the permit, and the fingerprints of the owner(s), officers, principal managing employees, and all employees who are involved in conducting the game activities or operating the game premises of the applicant. The permittee will notify the City Administrator within 10 days of any change in owners, officers, or principal managing employees that occurs subsequent to permit issuance.

**1.** For the purposes of this Section, **principal managing employee** includes:

- a.** any person who is a proprietor or partner of the applying organization;
- b.** any person who owns or controls five percent or more of the outstanding capital stock where the organization is a corporation;
- c.** any person who has supervisory authority over employees and/or operations of the business as it relates to the conduct of permitted social games; and
- d.** any person who has the authority to supervise the premises and conditions under which permitted social games are conducted.

2. Where the permit applicant is a nonprofit membership organization, "principal managing employee" may also mean the chief elected official of the organization and any other elected official(s) whose authority extends to the supervision or management of permitted social games.

3. With the concurrence of the Chief of Police or proper designee, the Revenue Division may exempt a corporate stockholder from the definition "principal managing employee" when it is shown that the involvement of such stockholder(s) in the operations of the applying organization is limited to stock ownership and that such stockholder(s) has no role in the conduct of the organization's operations.

4. All persons required to supply information in the application will by oath or affirmation swear to the veracity of the information supplied by them.

**B.** There is no right to renewal of a permit; each application will be considered as it would be for a new permit notwithstanding that the applicant has previously been issued a permit.

**C.** Each application for a permit must be accompanied by a nonrefundable fee of \$500.

**D.** Before issuance of a permit, the City Administrator or appropriate designee will confer with the Chief of Police or proper designee, who will advise whether or not and on what basis there exists law enforcement concerns about the particular applicant's suitability to obtain a permit. If the Chief of Police so recommends, then no permit will be issued, provided that Council may finally determine, upon appeal by the applicant that permit will be issued.

#### **14A.70.070 Social Games Permit Issuance, Denial.**

**A.** An application for a social game permit will be denied if the City Administrator finds:

1. That within five years of the present application date, the applicant or any person having a financial interest in the private business, private club, or place of public accommodation, or any of the applicant's officers or principal managing employees has been convicted of, or if evidence exists that supports a finding by a preponderance of evidence, that such person has committed any felony or misdemeanor under federal or state law or this Code relating to theft, fraud, gambling, controlled substances, or prostitution activities;

2. That the applicant or any person having a financial interest in the private business, private club, or place of public accommodation, or any of the applicant's officers or principal managing employees has falsified any statement in the application for permit;

3. That any violation of federal or State law or this Code relating to gambling has

occurred on the premises described in the application. It is prima facie evidence of such violation if any person has forfeited bail on, pleaded nolo contendere to, or been convicted of any offense in violation of federal or State law or this Code relating to gambling or gambling devices where the act charged occurred on the premises described in the permit application; or

4. That the applicant has permitted the commission of any criminal act on the premises described in the application or has failed to maintain the premises in conformance with all the requirements of this Code.

**B.** If one or more grounds for denial of a permit as described in Subsection A. of this Section are not established after investigation of the application by the City Administrator with assistance from the Portland Police Bureau, then the permit will be issued as soon as practicable.

#### **14A.70.080 Revocation, Suspension of Social Games Permit.**

**A.** The permit required under this Chapter may be temporarily suspended for up to 30 days or revoked by the Revenue Division for any reason that would be grounds for denial of an application for a permit. Additionally, such permit may be suspended or revoked when investigation reveals that:

1. Any violation of the provisions of this Chapter or any violation of federal or State law or City ordinance relating to minors, theft, fraud, gambling, obscenity, controlled substances, prostitution, or alcoholic beverages has occurred on or in such premises, or that any such violation was connected in time and manner with the operation of such premises and occurred within the proximity of same; or

2. Conducting of social games in such location as authorized by the permit causes disorderly or violent acts, litter, noise, vandalism, vehicular or pedestrian traffic congestion, or other similar problems in the area around the permitted premises.

**B.** Suspension or revocation will become effective five days after the Revenue Division makes reasonable attempts to notify the permittee in writing of the grounds for revocation or suspension. If the permittee gives notice of appeal to the Revenue Division prior to the effective date of the revocation or suspension, suspension, or revocation will not become effective until the appeal is finally determined. If the permittee cannot be found after a reasonable effort to locate the permittee has been made, then such notice may be sent by certified mail to the permit address, or posted at the same, and will be deemed acceptable alternative means of service in lieu of personal service.

**C.** On a case-by-case basis, depending upon the severity of the violation and the likelihood of continued unlawful activity on such premises, in lieu of suspending or revoking a permit or to reduce the penalty period involved, with the concurrence of the permittee and the Chief of Police, the City Administrator may order a fine of up to

\$500 per violation of this Code to be paid to the City's General Fund. Failure to pay the fine within 30 days is grounds for revocation or suspension of the social games permit.

### **14A.70.090 Appeal of Denial, Revocation, or Suspension of Social Games Permit.**

The sole method of appeal of a denial, revocation, or suspension of a permit is as follows:

**A.** When denying an application for permit, the Revenue Division must immediately make reasonable attempts to notify the applicant who may appeal within 10 days thereafter.

**B.** Upon receipt of notice of appeal of a permit denial, revocation, or suspension, the City Administrator will appoint a Hearings Officer to hear the appeal. The Hearings Officer will conduct a hearing on the matter, giving the permittee and the Revenue Division 10 days' notice of the date thereof. The hearing will be conducted according to the procedures established for contested case hearings in ORS Chapter 183 (Administrative Procedures Act). The Hearings Officer must issue a report within 10 days of the hearing, making findings of fact and determining whether the grounds for revocation or suspension given in the notice have been established by a preponderance of the evidence. The Hearings Officer's determination will be final and effective within 10 days of giving notice to the Revenue Division and the permittee, unless appealed to the Council before such time by the aggrieved party. The Council will hear and determine the appeal based on the record made at the hearing, but may, at its discretion, hear other evidence. In all cases, the decision of the Council is final.

### **14A.70.100 Inspection of Premises Permitted for Social Games.**

All persons who have been issued permits pursuant to this Chapter must permit entry to premises where social games are conducted to any member of the Revenue Division or any officer of the Portland Police Bureau, upon presentation of official identification, for the limited purpose of inspecting the premises and any activities, records, or devices involved in such games to ensure compliance with this Chapter. Failure to permit an authorized inspection is grounds for suspension or revocation of the involved social games permit.

### **14A.70.110 Notice of Social Games Required.**

Where social games are conducted, each permittee must continuously and conspicuously post notice that is clearly readable and in letters at least one inch high that such games must be conducted in accordance with the conditions set forth in this Chapter, which must be listed in their entirety.

### **14A.70.120 Unlawful Amusement Games and Concessions.**

**A.** It is unlawful for any person to manage, operate, or profit from any unlawful amusement game or concession.

**B.** As used in this Section, **unlawful amusement game or concession** includes the following:

1. Any amusement concession or game in which any physical limitations affecting the degree of skill necessary to win the amusement concession or game are not readily visible to the player, unless notice disclosing such physical limitations is displayed continuously and conspicuously at the location where the amusement concession or game is played, so as to be readily visible to patrons and contestants;
2. Any amusement concession or game where winning depends upon the patron or contestant's ability to throw or project an object, unless all such objects available for use by any single patron or contestant are uniform in size and weight;
3. Any amusement concession or game in which the ability of the patron or contestant to win depends upon throwing or projecting of an object, unless there exists an unobstructed air space of at least 18 inches in height above the highest point of any surface, object, or place upon which that object must land to win the amusement concession or game;
4. Any amusement concession or game in which any target, which must be struck, hit, overturned, broken, or passed through is tilted or inclined in any manner so as to give any advantage to the manager or operator;
5. Any amusement concession or game in which any material has been placed on any target so as to give any advantage to the manager or operator;
6. Any amusement concession or game that utilizes any device, other than the target and the objects to be thrown or projected at that target, which increases or decreases the opportunity of any patron or contestant to win the amusement concession or game;
7. Any amusement concession or game in which the patron or contestant is required to shoot a firearm, air gun, pellet gun, BB gun, or similar device at a target in order to win the amusement concession or game, unless all of the ammunition used in such devices is uniform in type, size, and weight, and the devices are physically attached or controlled to ensure that they can only be pointed toward the target area at all times; or
8. Any amusement concession or game in which, as a condition of winning the amusement concession or game, a part or all of a target must be destroyed, unless the patron or contestant is permitted, at their request, to inspect the target at any time(s) after he or she has paid to play and has concluded such contest but before he or she has left the amusement concession or game location.

## Chapter 14A.80 Minors

### 14A.80.010 Curfew.

**A.** It is unlawful for any minor to be in or upon any public property or public right-of-way between the hours specified in this Section, unless such minor is accompanied by a parent, guardian or other person 21 years of age or over and authorized by the parent or by the law to have care and custody of the minor, or unless such minor is then engaged in a school activity or lawful employment that makes it necessary to be in or upon any city property or public right-of-way during the hours specified in this Section. For minors under the age of 14 years who have not begun high school, curfew is between 9:15 p.m. and 6:00 a.m. of the following morning, except that on any day immediately preceding a day for which no public school is scheduled in the City, the curfew is between 10:15 p.m. and 6:00 a.m. of the following morning. For children 14 years of age or older who have begun high school, curfew is between 10:15 p.m. and 6:00 a.m. of the following morning, except that on any day immediately preceding a day for which no public school is scheduled in the City, curfew is between 12:00 a.m. and 6:00 a.m. of the following morning. For minors who have been found by a court to have possessed, purchased, used, transferred or transported a firearm unlawfully and are under the jurisdiction of the court as a result of that adjudication, curfew is between 7:00 p.m. and 6:00 a.m. of the following morning except for minors attending, or traveling directly to or from, a school-sponsored event, or a church, with written approval from the school, organization or church or to any activity or place with the permission of the minor's probation or parole officer or juvenile court counselor.

**B.** If a minor is taken into protective custody in violation of curfew, it is the responsibility of the parent, guardian, or other person having legal care and custody of the minor to come immediately and take custody of the minor from the police.

### 14A.80.020 Truancy Reduction.

**A.** For purposes of this Section, **regular school hours** are the hours of the full-time school that the minor would attend in the school district where the minor resides, on any day that school is in session, or, if the school in the school district of residence is unknown, **regular school hours** are the school hours of the Portland School District No. 1J on any day that school is in session.

**B.** A minor who is at least seven years of age and under 18 years of age and who has not completed the 12th grade may not be upon any public property or public right-of-way during regular school hours except while attending school as required by ORS 339.010 to 339.065, unless the minor is:

1. Absent from the school with the school's permission, but not including students who have been suspended or expelled;
2. Engaged in a lawful pursuit or activity that requires the minor's presence



somewhere other than school during regular school hours, and which is authorized by the parent, guardian, or other person having legal care and custody of the minor;

3. Lawfully emancipated pursuant to ORS 419B.550 to 419B.558; or

4. Exempt from compulsory school attendance pursuant to ORS 339.030.

**C.** If a police officer has reasonable suspicion to believe that a minor is in violation of this Section, the officer is authorized to detain the minor and make reasonable inquiry regarding a potential violation of Subsection B. of this Section.

**D.** If a police officer has probable cause to believe that a minor is in violation of this Section, the officer is authorized to take the minor into protective custody pursuant to ORS 419B.150.

### **14A.80.030 Unlawful Tattooing of a Minor.**

It is unlawful for any person to tattoo a minor or to assist or permit such tattooing, without the written permission of that minor's parent or legal guardian.

### **14A.80.040 Unattended Minors in Vehicles.**

It is unlawful for any person having the care and custody of a minor under six years of age to leave the minor unattended in a locked vehicle, or to leave the minor unattended in an unlocked vehicle for more than 15 minutes. A minor is unattended within the meaning of this Section if the oldest person with the minor is under the age of 10 years.

## **Chapter 14A.90 Illegal Firearms Use Hotspots**

### **14A.90.010 Illegal Firearms Use Hotspots.**

**A.** For the purposes of this Chapter, the following definitions apply:

**1. Essential needs:** food, physical care, and medical attention.

**2. Reside:** to occupy one's principal dwelling; including transient occupancy in a hotel or motel.

**3. Travel:** the movement on foot or within or upon a vehicle within an Illegal Firearms Use Hotspot from one point to another without delay other than to obey traffic control devices.

**B. Illegal Firearms Use Hotspots** are those areas of the City as designated by the City Council or designee under Chapter 14A.90 of this Code, which are areas where the number of firearms-related crimes or illegal discharges for a 12-month period within the 18 months preceding its designation is significantly higher than that for other similarly sized geographic areas of the City that are not located within an Illegal Firearms Use

Hotspot.

### **14A.90.020 Designation of Illegal Firearms Use Hotspots.**

**A.** The City Council may designate a geographic area meeting the criteria of Section 14A.90.010 of this Code to be an Illegal Firearms Use Hotspot. If Council makes the designation, it must do so by ordinance. The designation is valid for a period of three years and must be posted on the City's website, the Police Bureau's website, and listed on subsequent notices of exclusion. Notices of exclusion will require excluded persons to check the City and Police Bureau websites for changes in Hotspot locations and boundaries.

**B.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least 90 days before the end of the period referred to in Subsection 14A.90.020 A. of this Code, as to whether there is a need to re-configure the Illegal Firearms Use Hotspots.

### **14A.90.030 Civil Exclusion.**

**A.** A person is subject to exclusion under the process described in this chapter from any City-owned space, public right-of-way and park within an Illegal Firearms Use Hotspot designated in Chapter 14A.90 of this Code for the duration of a sentence of probation or parole or the duration of juvenile court jurisdiction over the person if the probation, parole or jurisdiction is based on a court finding the person committed any of the following offenses:

1. Any state firearm use or possession crime; or
2. Any City firearm use crime.

**B.** An exclusion from all Illegal Firearms Use Hotspot will take effect the day after conviction or finding of jurisdiction for any of the offenses enumerated in Subsection 14A.90.030 A. of this Code, but only when the person has been both given actual notice prior to the exclusion that the City would impose an exclusion upon conviction or adjudication and notice of the right to appeal, including the process for initiating an appeal.

**C.** A person excluded from an Illegal Firearms Use Hotspot under authority of this Section may not enter that Illegal Firearms Use Hotspot except to travel to and from and be present at the events and locations listed below:

1. Attend a meeting with an attorney;
2. Attend a scheduled initial interview with a social service provider;
3. Comply with court-ordered or corrections-ordered obligations;
4. Contact criminal justice personnel at a criminal justice facility;

5. Attend any administrative or judicial hearing relating to an appeal of:
  - a. the person's notice of exclusion; or
  - b. the denial, revocation, or amendment of the person's variance;
6. Travel through that Illegal Firearms Use Hotspot on a TriMet vehicle;
7. Travel through that Illegal Firearms Use Hotspot on the I-5, I-84 or I-405 freeways within its boundaries;
8. Reside in a dwelling or facility;
9. Satisfy, or attempt to satisfy an essential need by accessing a public or private place that provides an essential need or service when the essential need cannot reasonably be satisfied by the excluded person without entering the Illegal Firearms Use Hotspot;
10. Obtain social services when:
  - a. the excluded person is in need of social services;
  - b. the social services are sought for reasons relating to the health or well-being of the excluded person; and
  - c. the social services agency has written rules and regulations prohibiting the unlawful use and sale of controlled substances by their clients;
11. Obtain education by:
  - a. enrolling as a student at an educational facility; or
  - b. attending school at an educational facility;
12. Work as the owner, principal, agent or employee at a place of lawful employment;
13. Perform work directly related to lawful employment; or
14. Be present at any place or event as specified by a variance issued by the Chief of Police or designee pursuant to Subsection 14A.90.060 B. of this Code.

**D.** An exclusion is valid only if the person to be excluded received actual notice of the exclusion as required by Section 14A.90.050 of this Code; including notice of the limitations to the exclusion contained in Section 14A.90.020 of this Code.

#### **14A.90.035 Violation of an Exclusion - Penalties.**

**A.** It is unlawful for a person to enter or remain in an Illegal Firearms Use Hotspot in

violation of a valid exclusion imposed pursuant to this Code. For violation of this Subsection, a court may impose a fine of no more than \$500 or imprisonment of no more than 30 days, or both.

**B.** A person who enters or remains in an Illegal Firearms Use Hotspot in violation of a valid exclusion issued pursuant to this Code is subject to arrest for Criminal Trespass pursuant to ORS 164.245.

#### **14A.90.040 Issuance of Exclusion Notices.**

The Chief of Police and/or designees are the persons in charge of City property, the public rights of way and parks in the Illegal Firearms Use Hotspots for purposes of issuing notices of exclusion in accordance with this Chapter.

#### **14A.90.050 Procedure.**

**A.** When a court has entered a judgment that a person has committed any of the offenses enumerated in Subsection 14A.90.030 A. of this Code. and the person is on probation, parole or under the jurisdiction of the court for that offense, the Chief of Police and/or designees may exclude that person from all Illegal Firearms Use Hotspots. The exclusion takes effect immediately once the requirements of this Subsection are met.

**B.** At the time a person is issued a notice of exclusion from Illegal Firearms Use Hotspots, the Chief of Police and/or designees may discuss with the excluded person whether the person has a plausible need for a variance and may issue a variance pursuant to the process described in Subsection 14A.90.060 B. of this Code.

**C.** The notice of exclusion must be in writing and a copy delivered to the excluded person. The notice of exclusion will include the following:

- 1.** A description of the areas designated as an Illegal Firearms Use Hotspot from which that person is excluded;
- 2.** Information concerning the right to appeal the exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code;
- 3.** A statement identifying the conviction or adjudication that supports the exclusion;
- 4.** Notice that the exclusion will remain in effect for the duration of any probation, parole or jurisdiction resulting from the supporting conviction or adjudication; and
- 5.** Notice that conviction of the offense for which the person was arrested and excluded will result in exclusion for the duration of any resulting probation, parole or juvenile court jurisdiction and information concerning the right to appeal the exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this

Code.

### **14A.90.060 Appeal, Review and Variances.**

**A.** Appeal. A person to whom notice of exclusion is issued has a right to appeal as follows:

- 1.** Appeals must be made to the Code Hearings Officer of the City. Any hearings regarding such appeals will be conducted in accordance with Chapter 22.10 of this Code.
- 2.** Copies of documents in the City's control which are intended to be used at the hearing will be made available, upon request, to the appellant.
- 3.** An appeal of an exclusion must be filed, in writing, by 5:00 p.m. of the fifth business day following the date the exclusion takes effect.
- 4.** An appeal of:
  - a.** a denial of a request for a variance;
  - b.** a denial of a request for an amendment to a variance; or
  - c.** a revocation or amendment of a variance must be filed, in writing, by 5:00 p.m. of the fifth business day following the action regarding the variance.
- 5.** A 1 year conviction-based exclusion takes effect at 12:01 a.m. on the calendar day following the date of conviction and, notwithstanding an appeal of the exclusion, will remain in effect unless the Code Hearings Officer issues a contrary decision.
- 6.** At the hearing on an appeal of an exclusion, the City has the burden to show by a preponderance of the evidence that the appellant was convicted of, or found to be within the jurisdiction of the court as a result of having committed, any of the offenses enumerated in Subsection 14A.90.030 A. of this Code.
- 7.** At the hearing on an appeal of a denial of a request for a variance as provided in Subsection 14A.90.060 A.4.a. of this Code, the City has the burden to show by a preponderance of the evidence that the denial was in accordance with this Section.
- 8.** At the hearing on an appeal of a denial of a request for an amendment to a variance as provided in Subsection 14A.90.060 A.4.b. of this Code, the City has the burden to show by a preponderance of the evidence that the denial was in accordance with this Section.
- 9.** At the hearing on an appeal of a revocation or amendment of a variance as

provided in Subsection 14A.90.060 A.4.c. of this Code, the City has the burden to show by a preponderance of the evidence that any of the conditions enumerated in this Section supporting revocation or amendment existed at the time of revocation or amendment.

**10.** At the hearing on an appeal of a 90-day exclusion, the following is prima facie evidence that the exclusion was based on probable cause to believe that the appellant committed any of the offenses enumerated in Subsection 14A.90.030 A.

**B. Variances.** Variances modify an exclusion, and will be granted, denied, amended or revoked in accordance with the following provisions:

- 1.** All variances must be in writing, state the purpose for which they are granted, and include the period of time during which they are effective. A variance that does not describe its period of effectiveness is effective for the duration of the exclusion. A variance allows relief from exclusion only for travel to and from specified locations, activities or events, and presence at specified locations, activities and events within an Illegal Firearms Use Hotspot;
- 2.** All Police Bureau Precincts will receive and process requests for variances during regular business hours if they are otherwise open to the public. This capability will be maintained at the main precinct station or at a sub-station.
- 3.** The Chief of Police and/or designees may, for any reason, grant an excluded person a variance from an exclusion at any time during an exclusion period. Except as described in Subsection 14A.90.050 B. of this Code, the Chief of Police and/or designees will grant an appropriate variance to an excluded person who presents a plausible need to engage in any non-criminal activity that is not associated with the behavior supporting the person's exclusion. A variance granted under this Subsection allows travel within a Hotspot only in accordance with the terms specified in the variance. The Chief of Police or designees will ask a person requesting a variance to provide and update an address through which the person can be reached for the duration of the variance in the event the City determines there is a need to amend or revoke the variance.

**C. Revocation or amendment of variances.** A variance may be revoked or amended for the following reasons and in the following manner:

- 1.** The excluded person provided false information in order to obtain the variance;
- 2.** There is probable cause to believe the person has committed any of the offenses enumerated in Subsection 14A.90.030 A. of this Code. in a Hotspot subsequent to the issuance of the variance;
- 3.** The circumstances giving rise to the issuance of the variance no longer support a continuation of the variance or a term thereof;

4. If the person presents new circumstances that would support amending the variance; or

5. A revocation or amendment of a variance becomes effective at 5:00 p.m. of the fifth business day following mailing of notice of the action to the excluded person at the address provided pursuant to Subsection 14A.90.060 B.3. unless the excluded person appeals the determination by following the procedures in Section 14A.90.060 of this Code.

### **14A.90.070 Listing of Illegal Firearms Use Hotspots.**

The following descriptions comprises the boundaries of the Illegal Firearms Use Hotspots listed, and the Hotspots include the entire area on and within the listed boundaries.

**A. Central Hotspot:** The area encompassed by the west bank of the Willamette River, the centerlines of SW Madison St, SW Naito Pkwy, SW Jefferson St, the center divider of I-405, the centerline of NW Glisan St and a line extended from the centerline of NW Glisan to the west bank of the Willamette River.

**B. North / Northeast Hotspot:** The area encompassed by the centerlines of N Interstate Ave, N and NE Russell, NE Martin Luther King Blvd and N and NE Lombard.

**C. East Hotspot:** The area encompassed by the centerlines of NE Glisan St, 148th Ave, SE Stark St and 162nd Ave.

## **Chapter 14A.100 Regulations Governing the Safety and Conduct on Portland Streetcar, City of Portland Property**

### **14A.100.010 Purpose.**

For the safety, convenience and comfort of passengers, and for the safety of personnel and the region, and for the preservation of service quality in pursuit of the City's duty to provide a cost-effective source of reliable transportation, and to prevent system security vulnerabilities, it is necessary to establish rules and regulations governing conduct on Portland Streetcar system and protection of City property. Any violations of this Chapter is punishable in accordance with Chapter 14A.110 of this Code.

### **14A.100.020 Definitions.**

For the purposes of Chapters 14A.100 and 14A.110, the following definitions apply:

**A. Citations** mean any forms as authorized pursuant to ORS Chapter 153 and issued for violation this Chapter or Chapter 14A.110.

**B. City** means the City of Portland, Oregon.

**C. Emergency** means an on-board Portland Streetcar vehicle fire, any incident that presents the risk of actual or threatened serious physical injury to persons, any apparently urgent medical need or any other circumstances in which a state of emergency has been declared.

**D. Fare Enforcement Agent** means a person authorized by the Director of Transportation to inspect proof of fare payment and to issue citations as provided by Chapters 14A.100, 14A.110 and the associated administrative rules.

**E. Fare instrument** means any fare media, pass or transfer issued by TriMet or the Portland Streetcar authorizing the bearer to ride the Portland Streetcar.

**F. Hearings Officer** includes any person designated by the City to conduct hearings upon the request of a person who has received an exclusion.

**G. Honored Citizen** means

1. Transit rider that is 65 or older and has a government-issued photo ID (with proof of age) or a TriMet Honored Citizen ID Card; or
2. Is a person with a physical or mental disability and is the holder of a TriMet Honored Citizen ID Card.

**H. Pay station** means a machine, facility or kiosk where a person may purchase a fare instrument.

**I. Peace Officer** means a Portland police officer, sheriff, constable, marshal, municipal police officer, member of the Oregon State Police, and such other persons as maybe designated as a peace officer by Oregon law.

**J. Portland Streetcar platform** means an area used exclusively for boarding and de-boarding or waiting for a Portland Streetcar or TriMet bus (if co-designated as a bus stop), including the designated loading area, stairways, ramps, and shelters.

**K. Portland Streetcar station** means any designated place where streetcars stop to board and de-board passengers, or designated layover zones, including the platform.

**L. Portland Streetcar Transit System** means the streetcar platforms, the streetcar stations, fare machines, comfort stations, maintenance facilities, vehicles and rails.

**M. Portland Streetcar vehicle** means the rail vehicles used to transport passengers operated on behalf of the City, and other non-rail vehicles operated by Portland Streetcar.

**N. Proof of payment** means a validated fare instrument issued by TriMet or



Portland Streetcar including but not limited to a circulator transfer, Portland Streetcar Annual Pass, other fare media fare identification or documentation authorized by Chapters 14A.100 and 14A.110 or the administrative rules.

**O. Qualified exclusion** means an exclusion from use of the Portland Streetcar Transit System with geographic or time exceptions that permit an excluded individual with a disability or a transit-dependent individual to use the Portland Streetcar Transit System for trips of necessity, including travel to and from medical and legal appointments, school or training classes, places of employment, or to obtain food, clothing and necessary household items, or to access a critical service.

**P. Service Animal** means any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

**Q. Transit dependent** means a person who has no independent source of transportation and relies solely on public transit for local movement access.

## **Chapter 14A.110 Prohibited Conduct**

### **14A.110.005 Purpose.**

The purpose of this Chapter is to ensure the safety and comfort of the public and to enhance the orderly administration of the Portland Streetcar, by prohibiting conduct that unreasonably interferes with the administration and lawful use of the Portland Streetcar. 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 Portland Streetcar. Any violation of the provisions of this Chapter is punishable in accordance with Chapter 14A.110 of this Code.

### **14A.110.010 Failure to Vacate Elderly and Disabled Priority Seating.**

No person may fail to vacate seats on a Portland Streetcar vehicle designated for use by individuals with disabilities and those qualified for honored citizen fares, when requested to do so by a peace officer, Enforcement Agent, Portland Streetcar employee, or other person designated by the Director of Transportation.

### **14A.110.020 Smoking Prohibited.**

No person may smoke tobacco or any other substance or carry any lighted or smoldering substance in any form aboard a Portland Streetcar vehicle, at a Portland Streetcar station or within any space where posted signage prohibits smoking.

### **14A.110.030 Food and Beverages.**

No person may bring or carry aboard a Portland Streetcar vehicle food or beverages in open containers, nor consume food aboard a Portland Streetcar vehicle.

#### **14A.110.040 Sound-Emitting Devices Without Earphones.**

No person unless authorized by the Director of Transportation or the Director's Designee may operate a sound-emitting device aboard any Portland Streetcar vehicle at a Portland Streetcar station unless the only sound produced by such item is emitted by a personal listening attachment (earphone) and is plainly audible only to the person using the device producing the sound.

#### **14A.110.050 Shopping Carts.**

No person may bring or carry a commercial shopping cart aboard any Portland vehicle or to a Portland Streetcar Station.

#### **14A.110.060 Animals.**

No person may bring or carry aboard a Portland Streetcar vehicle or be present at a Portland Streetcar station with an animal except:

- A.** A person accompanied by a service animal or a person training a service animal and that service animal is under the control of the person by leash, harness or other device made for the purpose of controlling the movement of an animal;
- B.** A police officer accompanied by a trained police dog; or
- C.** A person transporting an animal if:
  - 1.** the animal is kept and held at all times within a secure container appropriate for carrying the size and type of animal; and
  - 2.** the animal can be transported
    - a.** without risk of injury to the animal and without risk of harm or inconvenience to other riders or Portland Streetcar personnel, and
    - b.** in accordance with all other provisions of Chapters 14A.100 and 14A.110.

#### **14A.110.070 Noxious Fumes or Foul-Smelling Materials or Substances.**

No person may carry aboard a Portland Streetcar vehicle any substance or material emitting a foul smell or releasing noxious fumes.

#### **14A.110.080 Oversize Packages.**

No person may bring or carry aboard a Portland Streetcar vehicle any package or article of a size which cannot be positioned in a way that allows entry and exit through doors and passage in aisles.

**14A.110.090 Skateboards, Roller skates and In-Line Skates.**

No person may ride a skateboard, in-line skates or roller-skates at a streetcar station or upon a Portland Streetcar vehicle.

**14A.110.100 Bicycles.**

No person may ride a bicycle on a Portland Streetcar vehicle or at a streetcar station unless authorized by the Director of Transportation. No person may transport a bicycle on a Portland Streetcar vehicle in violation of the Portland Streetcar administrative rules.

**14A.110.120 Motorized Human Transporters and other Two Wheeled Transportation Devices.**

No person may operate or ride upon a motorized human transporter or other two wheeled device upon a Portland Streetcar vehicle or station/platform except in accordance with administrative rules or otherwise permitted by law.

**14A.110.130 Excessive Noise.**

No person may make excessive or unnecessary noise, including boisterous, disruptive and unreasonably loud conduct, within any Portland Streetcar vehicle or Portland Streetcar station that may cause inconvenience or annoyance to the public, Portland Streetcar personnel, designated enforcement agents or a police officer, or with a negligent disregard to the risk thereof; or perform vocal or instrumental music, without the prior authorization the Director of Transportation or the Director's designee.

**14A.110.140 Display of Lights.**

No person may light a flashlight, scope light, or laser light or object that projects a flashing light or emits a beam of light while inside a Portland Streetcar vehicle except in an emergency.

**14A.110.150 Use of Portland Streetcar System for Non-Transit Purposes.**

No person may enter or remain upon, occupy or use a Portland Streetcar station for purposes other than boarding, disembarking or waiting for a Portland Streetcar vehicle, in an area where non-transit uses are prohibited by posted signage. A person is in violation of this Section only after having occupied a Portland Streetcar station for a period of time that exceeds that which is necessary to wait for, board or disembark a Portland Streetcar vehicle or other designated public transportation vehicle using a designated shared station.

**14A.110.160 Destructive Conduct Involving a Portland Streetcar Vehicle.**

No person may interfere with the safe and efficient operation of a Portland Streetcar vehicle through conduct which includes, but is not limited to:

- A.** Extend any portion of their body through any door or window of a Portland Streetcar vehicle while it is in motion;
- B.** Attempt to board or de-board a moving Portland Streetcar vehicle;
- C.** Lie down on the floor in a Portland Streetcar vehicle or across the seats of a Portland Streetcar vehicle or station in a manner which inhibits the proper use of seats provided for waiting or boarding riders;
- D.** Unreasonably prevent or delay the closure of an exterior door on a Portland Streetcar vehicle;
- E.** Strike or hit a Portland Streetcar vehicle, station or shelter; or
- F.** Stop or cross in front of a Portland Streetcar vehicle for the purpose of stopping the vehicle or gaining passage after the vehicle has concluded boarding in any manner hang onto; or attach themselves to, any exterior part of a Portland Streetcar vehicle while the vehicle is resting or in motion.

#### **14A.110.170 Refuse and Waste.**

No person may:

- A.** discard or deposit or leave any rubbish, trash, debris, offensive substance or other solid or liquid waste in or upon a Portland Streetcar vehicle, or Portland Streetcar station, except in receptacles provided for that purpose; or
- B.** spit, defecate or urinate in or upon a Portland Streetcar vehicle or Portland Streetcar station except in the confines of a lavatory where lavatories are available for public use.

#### **14A.110.180 Destruction of Signs.**

No person may mutilate, deface or destroy any sign, notice or advertisement authorized by Portland Streetcar staff or located on any Portland Streetcar vehicle or any other Portland Streetcar property.

#### **14A.110.190 Posting of Unauthorized Signs or Notices.**

Except as otherwise authorized by the Director of Transportation, the Director's Designee, or allowed by Portland Streetcar regulations, no person may place, permit or cause to be placed any notice or sign upon any Portland Streetcar vehicle or Portland Streetcar station.

#### **14A.110.200 Violation of Signage.**

In addition to the prohibitions set forth in Chapter 14A.110, no person may fail to abide by specific directives authorized by a peace officer or Portland Streetcar staff and

provided in the form of a fixed permanent or temporary sign posted in or upon the Portland Streetcar vehicles or station. The Director of Transportation, or the Director's designee, may establish and post such signage in a manner to provide sufficient notice concerning the conduct required or prohibited. Any violation of the specific directives authorized by the Director of Transportation constitutes a violation of this Subsection.

#### **14A.110.210 Unlawful Gambling.**

No person may engage in illegal gambling, or solicit others to engage in illegal gambling, aboard any Portland Streetcar vehicle or in or upon a Portland Streetcar station, in violation of ORS 167.117 to 167.162.

#### **14A.110.220 Alcoholic Beverages.**

No person may:

- A.** possess an open container of alcoholic beverage on a Portland Streetcar vehicle or at a Portland Streetcar station, unless authorized by the Director of Transportation, the Director's Designee, or City of Portland permit; or
- B.** be under the influence of alcohol or a controlled substance while on a Portland Streetcar vehicle or at a Portland Streetcar station.

#### **14A.110.230 Sexual Activity.**

No person may engage in sexual conduct as defined under ORS 167.060, including, but not limited to, the physical manipulation or touching of a person's sex organs through a person's clothing in an act of apparent sexual stimulation or gratification.

#### **14A.110.240 Damaging or Defacing Portland Streetcar Property.**

No person may draw graffiti or any other writing on any Portland Streetcar vehicle or Portland Streetcar property; or in any manner damage, destroy interfere with or obstruct in any manner, the property, services or facilities of the Portland Streetcar system.

#### **14A.110.250 Misuse of Portland Streetcar Ticket Vending or Ticket Validating Equipment.**

No person may:

- A.** Deface, injure, tamper with, break or destroy or impair the usefulness of any Portland Streetcar ticket vending machine or ticket validating machine;
- B.** Remove any coin box or the money content from any Portland Streetcar ticket vending machine or Portland Streetcar property; or
- C.** Open or remove the contents of same without lawful authority.

**14A.110.260 Criminal Activity.**

No person may engage in activity prohibited by the criminal laws of any state, county or municipality in which the criminal incident occurs, while on a Portland Streetcar vehicle or at a Portland Streetcar station.

**14A.110.270 Flammable Substances and Ignition Devices.**

No person may bring, possess, or carry aboard onto a Portland Streetcar vehicle or to a Streetcar station any flammable or caustic substance or device that can cause a spark or flame, except for matches and cigarette lighters. No spark or flame may be lit or initiated at any time by any device on a Portland Streetcar vehicle, including matches and lighters.

**14A.110.280 Weapons.**

No person, except a peace officer, may bring or carry aboard a Portland Streetcar vehicle or to a station any firearm (as defined in Chapter 14A.10.010 of this Code), knife (except a folding knife with a blade less than 3-½ inches in length), or any other instrument, article, device, material, or substance specifically designed to inflict or cause bodily harm to another. Where possession of such weapons cannot be prohibited by law, a person in possession of a weapon may not display or carry the weapon in a manner which is likely to result in fear or alarm by other persons or Portland Streetcar employees.

**14A.110.290 Discharge or Detonation of a Weapon.**

No person may throw an object at or discharge a bow and arrow, air rifle, rifle, gun, revolver, or other firearm (as defined in Chapter 14A.10.010 of this Code) at a Portland Streetcar vehicle or any part of a Portland Streetcar station, or any person on a Portland Streetcar vehicle or at a Portland Streetcar station, except that a peace officer or other persons authorized by this code or the Director of Transportation in the course of employment are exempt from this paragraph.

**14A.110.300 Activation of the Emergency Stop Device Except in an Emergency.**

No person may activate the “emergency stop” device of a Portland Streetcar vehicle in the absence of an emergency.

**14A.110.310 Interference with or Trespass on Portland Streetcar Trackway.**

No person may:

- A.** Enter upon or remain upon the Portland Streetcar trackway so as to create a hazard to that person or interfere with the passage of the Portland Streetcar vehicle;

**B.** Stop or park a vehicle on the Portland Streetcar trackway in such a manner as to interfere with the passage of the Portland Streetcar vehicle;

**C.** Fail to obey a Portland Streetcar authorized posted directive or prohibition pertaining to entering, crossing or traveling upon the trackway; or

**D.** Fail to obey a request by a peace officer, a Portland Streetcar enforcement agent, a Portland Streetcar Superintendent or Manager, or any other person authorized by the Director of Transportation to not enter, cross or travel upon the Portland Streetcar trackway.

#### **14A.110.320 Hazardous and Toxic Material or Substances.**

No person may carry, possess or transport any hazardous material, toxic chemical, combustible liquid, biological contagion or agent, radioactive substance or any other inherently dangerous substance onto a Portland Streetcar vehicle or other Portland Streetcar property unless the person is a Portland Streetcar employee or a person authorized by the Director of Transportation and acting in the course of employment.

#### **14A.110.330 Harassment and Intimidation.**

While at a Portland Streetcar station, on a vehicle or on any streetcar property, no person may engage in a course of conduct:

**A.** Which places another person in reasonable fear of imminent physical harm, including, but not limited to, following such person around or about the vehicle or platform, or by preventing or delaying the movement or departure of such person through coercion or intimidation; or

**B.** that may reasonably be expected to result in fear, alarm, or serious offense to other persons.

#### **14A.110.340 Explosive Materials or Device.**

No person may carry, possess, or transport any explosive material or device, assembled or disassembled, onto a Portland Streetcar vehicle or other Portland Streetcar property; or state a threat to cause disruption to Portland Streetcar operations through the use of a bomb, explosive, or any other destructive device or weapon, or release of any harmful substance, while on a Portland Streetcar vehicle or other Portland Streetcar property; or state a threat of physical harm to any person on a Portland Streetcar vehicle, or any peace officer, Portland Streetcar personnel, fare enforcement agent, or other person acting in the course of employment as authorized by the Director of Transportation.

#### **14A.110.350 Interference with Emergency Response.**

No person may impede the efforts of Portland Streetcar personnel, peace officers, persons authorized by the Director of Transportation or medical responders in the

course of an emergency response, including the failure to obey a lawful order uttered in the course of an emergency by Portland Streetcar personnel, peace officers, enforcement agents, or other persons authorized by the Director of Transportation.

#### **14A.110.360 Abandonment of Packages.**

No person may knowingly abandon an unauthorized package on a Portland Streetcar vehicle or Portland Streetcar station where the abandonment of such package is likely to cause:

- A.** suspicion or alarm about its contents; or
- B.** require the dispatch of emergency response personnel to remove and inspect the package.

#### **14A.110.370 Failure to Pay Fare.**

- A.** It is unlawful for any person to occupy, ride in, or use any Portland Streetcar vehicle without paying the applicable fare.
- B.** It is unlawful for any person to occupy, ride in, or use any Portland Streetcar Vehicle without carrying proof of fare payment as defined in the administrative rules.
- C.** It is unlawful for any person occupying a Portland Streetcar Vehicle or occupying a streetcar platform upon disembarking a streetcar vehicle, to fail to carry or fail to exhibit proof of fare payment upon demand of an Inspector or a peace officer.
- D.** It is unlawful for any person to fail to provide their name, address or identification to a Fare Inspector, peace officer or any other person designated by the Director of Transportation, who requests the information for the purpose of issuance or service of a citation.
- E.** It is unlawful for any person, required by Chapter 14A.110 to provide their name, address or identification to provide a false name, address or identification.

#### **14A.110.380 Possession of Un-validated Transfer.**

- A.** No person may, without proper authority, possess an un-validated Portland Streetcar or TriMet District fare instrument, nor may any person tender a transfer as proof of fare payment if the transfer was not furnished to that person by a representative of the Portland Streetcar or TriMet District.
- B.** Possession of an un-validated Streetcar or TriMet District passenger transfer by any person whose possession of the transfer is not in the course and scope of employment as a Portland Streetcar or TriMet District employee is prima facie evidence that the transfer is stolen and possessed without proper authority.

#### **14A.110.390 Administrative Rules.**



The City Administrator may adopt administrative rules as authorized by Charter.

### **14A.110.400 Exclusion.**

In addition to other measures provided for violation of the laws of the City or the laws of the State of Oregon, the City may exclude an individual from all or any part of the Portland Streetcar Transit System for a violation of any provision of Chapter 14A.110 or a violation of any criminal law of the City of Portland or State of Oregon while on the Portland Streetcar System, for a period of time not to exceed 180 days.

**A.** A person excluded under Chapter 14A.110 may not during the period of exclusion, enter or remain upon any part of the Portland Streetcar Transit System. Exclusion takes effect on the 5th business day following service of a Notice of Exclusion unless the person initiates the administrative review described in Subsection 14A.110.400 D. Except as specifically authorized by the terms of a qualified exclusion issued pursuant to Subsection 14A.110.400 K., an excluded person who enters or remains upon any part of the Portland Streetcar Transit System may be charged with the crime of Interfering with Public Transportation (ORS 166.116) or the crime of Criminal Trespass in the Second Degree (ORS 164.245).

**B.** A Notice of Exclusion may be issued by a peace officer or by any person authorized by the Director of Transportation or the Director's Designee based upon probable cause to believe that an individual has engaged in conduct in violation of the laws of the City or the State of Oregon while on the Portland Streetcar system.

**C.** A Notice of Exclusion must include:

1. The title or citation of the offense for which the exclusion is issued;
2. An explanation of the administrative review procedures and timeline, a description of the Code Hearings process, and an explanation of the evidentiary burdens; and
3. A statement of the duration of the exclusion, or alternatively, a statement of the mechanism by which the duration of the exclusion may be determined in accordance with Section 14A.110.400.

**D.** Every person who receives a Notice of Exclusion is entitled to an administrative review by the Director of Transportation or the Director's Designee. To initiate an administrative review, a person who receives a Notice of Exclusion must submit a request for review within five business days of the date of the Notice at the Bureau of Transportation office indicated in the Notice. The Portland Bureau of Transportation will have seven business days to perform the administrative review. All exclusions are subject to a stay pending administrative review. The purpose of the administrative review is to determine whether a Notice of Exclusion conforms to the administrative rules. If the Director of Transportation or the Director's Designee determines, after conducting an administrative review, that the Notice of Exclusion

does not conform to Portland Streetcar administrative rules, the Director of Transportation or the Director's Designee will notify the individual that the Notice of Exclusion is invalid and withdrawn by contacting the individual at the address they submitted with the review. If the administrative review confirms that a Notice of Exclusion was issued in conformity with Portland City Code and Portland Streetcar administrative rules, it will be deemed valid and the individual notified at the address submitted with the appeal. If the exclusion is deemed valid the exclusion will take effect and begin on the 12th business day following the date in which the Notice of Exclusion was issued or two business days following mailing or transmission of the decision, whichever is later. If a person does not provide a mailing or electronic address, an upheld exclusion becomes effective two business days after the decision is posted at the Portland Bureau of Transportation office indicated in the notice.

**E.** A person wishing to appeal the result of an administrative review may do so by filing an appeal as provided in Section 22.10.030 within 10 calendar days at the Portland Bureau of Transportation office specified in the exclusion notice. All appeals will be heard by the City of Portland Code Hearings Officer in accordance with the provisions of Title 22 of this Code. The Hearings Officer will uphold the exclusion if, upon the Hearings Officer's de novo review, the preponderance of evidence admissible under the provision of Title 22 convinces the Code Hearings Officer that it is more likely than not that the person in fact committed the violation and that the exclusion is otherwise in accordance with the law.

**F.** A person subject to exclusion who has no prior exclusion record will be excluded for 30 days.

**G.** A person subject to exclusion who has been previously excluded within two years will be excluded for 90 days.

**H.** A person subject to exclusion who has been previously excluded two or more times within the past two years will be excluded for 180 days.

**I.** A person subject to exclusion for violation of State criminal law will be excluded for 180 days.

**J.** No person may enter the streetcar transit system at any time during which there is in effect a notice of exclusion issued under this Section excluding that person from the system.

**K.** Notwithstanding any other provision of Chapters 14A.100 and 14A.110, the Director of Transportation, or the Director's Designee, upon a review of sufficient evidence, and the Hearings Officer, upon review of the Notice of Exclusion or the evidence presented at the hearing, must modify an exclusion under the circumstances provided for below:

- 1.** An individual with a disability may not be issued a complete exclusion from the Portland Streetcar Transit System unless the person engaged in violent,

seriously disruptive or criminal conduct, or in conduct posing a serious threat to the safety of others or to the operation of the transit system. Absent such a finding, if a Hearings Officer determines that a violation occurred the Hearings Officer will order a qualified exclusion to permit an individual with a disability to use the Portland Streetcar Transit System for trips of necessity, including travel to and from medical and legal appointments, school or training classes, places of employment, to obtain food, clothing and necessary household items, or to access any critical service.

**2.** A transit dependent person may not be issued a complete exclusion for the District Transit System unless the person engaged in violent, seriously disruptive, or criminal conduct, or in conduct posing a serious threat to the safety of others or to the operation of the transit system. Absent such a finding, if a Hearings Officer determines that a violation occurred, the Hearings Officer will order a qualified exclusion to permit a transit dependent individual to use the District Transit System for trips of necessity, including travel to and from medical and legal appointments, school or training classes, places of employment, to obtain food, clothing and necessary household items, or to access a critical service. Any person asserting the right to a qualified exclusion on the basis of transit dependence has the burden of establishing transit dependence by a preponderance of the evidence.

**L.** The City Administrator may adopt such procedures and promulgate rules as may be necessary from time to time for the administration of this or other chapters.

#### **14A.110.410 Enforcement.**

**A.** Any peace officer, manager or superintendent and any other persons authorized by the Director of Transportation has the authority to:

- 1.** detain and issue a citation;
- 2.** refuse entrance to a Portland Streetcar vehicle or Portland Streetcar station or any property owned or controlled by Portland Streetcar; or
- 3.** require departure from a Portland Streetcar vehicle or Portland Streetcar property of any person:
  - a.** who violates any provision of Chapter 14A.110; or
  - b.** has been issued a notice of exclusion.

**B.** A streetcar Vehicle Operator has the authority to:

- 1.** refuse entrance to a Portland Streetcar vehicle or Portland Streetcar station or any property owned or controlled by Portland Streetcar; or
- 2.** require departure from a Portland Streetcar vehicle or Portland Streetcar

property of any person:

- a. who violates any provision of Chapter 14A.110; or
- b. has been issued a notice of exclusion.

#### **14A.110.420 Other Remedies.**

Nothing herein is intended to compromise or waive the right to enforce concurrently, or in the alternative, other remedies available pursuant to the Oregon Criminal Code or Portland City Code, including those applicable to the crime of Theft of Services (as defined in ORS 164.125) or Trespass (as defined in ORS 164.245).

#### **14A.110.430 Violations Punishable by Fine.**

Any person who violates any provision this code commits a violation as defined in ORS 153.005 and ORS 153.008, punishable by a fine as outlined in the administrative rules.

#### **14A.110.440 Administrative Rules.**

The City Administrator may adopt administrative rules as authorized by Charter.

## **Chapter 14B.10 Burglary and Alarm Systems**

### **14B.10.010 Purpose and Scope.**

**A.** The purpose of this chapter is to provide guidance and policy for alarm users and alarm businesses regarding responsible use of personal and business security and emergency alarms. The procedures herein ensure that owners or leasers of alarm systems and alarm companies know their responsibilities for maintaining the mechanical reliability and the proper use of alarm systems to prevent unnecessary police emergency response to false alarms. Proper use of alarms and accountability for improper use contributes to the protection of the emergency response capability of the City.

**B.** This chapter governs burglary and robbery alarm systems, states the requirements of permitting systems, provides guidance for excessive false alarm fines, provides for discontinuation and/or reactivation of police response to locations with excessive false alarm occurrences, and establishes a system of administration within the Portland Police Bureau. Other chapters of the Portland City Code will continue to govern other emergency alarm types, such as fire or environmental hazard alarms.

### **14B.10.020 Definitions.**

For the purposes of this Chapter, the following definitions apply:

**A. Alarm business** means any individual, partnership, corporation, or other entity whose business objective, in whole or in part, as direct provider of parts and services or agent for the direct provider of parts and services, is the selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing of any alarm system (as defined below).

**B. Alarm site** means the location at which a subscriber's alarm system is installed.

**C. Alarm system** means a device or series of devices, including, but not limited to, systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual, or electronic signal indicating an alarm condition and intended to summon law enforcement, including local alarm system. For purposes of this Chapter, **alarm system** is limited to alarms whose primary purposes is the detection or prevention of burglaries, robberies, or other acts generally requiring a police (as opposed to fire or medical) response.

**D. Alarm system monitoring company** means any individual, partnership, corporation, or other form of association that engages in the business of monitoring property, burglary, or robbery alarm systems. For purposes of this Chapter, alarm system monitoring companies include those dealers and installers who contract with a property owner, subscriber, or customer, to perform alarm system monitoring services and then subcontract with another alarm system monitoring company to provide the actual monitoring service.

**E. Alarm system user** means a person having (whether through ownership or lease) or maintaining an alarm system or alarm device where such system is connected to or in communication with an alarm system monitoring company.

**F. Alarm user's permit** means a document applied for by an alarm system user and issued by the System Administrator (as defined below) of their designee pursuant to the criteria established by this Chapter.

**G. Audio / video verification** means the alarm incident has been verified by the alarm system monitoring company by means of audio and/or video, prior to the request to dispatch police.

**H. Automatic dialing device** means a device that is interconnected between an alarm system (as defined above) and a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response.

**I. Bureau of Emergency Communications** is the City/County Public Safety Answering Point entity that receives emergency and general information from the public, and then dispatches appropriate emergency services from respective police, fire, or medical agencies.

**J. Burglary alarm system** means an alarm system signaling an entry or attempted

entry into the area protected by the system.

**K. Cancellation of alarm dispatch** means the process by which an alarm system monitoring company providing monitoring services verifies with the alarm user or responsible party that a false dispatch has occurred and that there is not an existing situation at the alarm site requiring law enforcement agency response.

**L. Chief** means the Chief of the City of the Portland Police Bureau or their designated representative.

**M. Commercial properties** means any building or location used to operate a business that is not the alarm user's primary dwelling.

**N. Days** for purposes of calculating any time frames herein, mean calendar days (and not business days).

**O. Do it yourself (DIY)** means the alarm system and components are purchased through a retail center or online provider by the alarm user and are typically installed by the alarm user.

**P. Duress alarm** means a silent alarm system signal generated by the manual activation of a device intended to signal a life-threatening situation or a crime in progress requiring law enforcement response.

**Q. Enhanced call verification** means a type of alarm verification in which an alarm monitoring company places two or more phone calls to different contact numbers in an attempt to verify that a real alarm has occurred and not a false alarm.

**R. False alarm** means a notification to the Portland Police Bureau from any source that any of the following scenarios have occurred:

1. If, once police arrive at the alarm site, the investigating police officer or first officer on-scene finds that there is no evidence of a crime or other activity that warrants the assistance of the Portland Police Bureau on the premises, as indicated by the investigation of a police officer on the scene or, if upon police arrival, by the property owner, or the property owner's tenant(s) or employee(s), refuse cooperation with police or deny the need for police assistance;
2. The person who contacted the Bureau of Emergency Communications and requested a police response, and/or who set off an alarm system to alert emergency services and/or who confirmed a video communication is no longer on or near the premises of the alleged emergency and/or at the time of police arrival now denies the need for police response; or
3. The Bureau of Emergency Communications has already dispatched police to a call from an alarm system monitoring company, and the alarm system monitoring company later informs the Bureau of Emergency Communications or police that the alarm was cancelled. A false alarm occurs regardless of whether it is before

or after the arrival of police at the alarm site, so long as the dispatch has already occurred. A false alarm does not result if the alarm system monitoring company cancels a dispatch request before the Bureau of Emergency Communications dispatches officers to an alarm site.

**S. Monitoring** means the process by which an alarm system monitoring company receives signals from an alarm system or alarm device.

**T. Multiple device triggers** means at least two sensors, devices or combination of both have been activated, prior to the request to dispatch police.

**U. Police response** occurs when the Bureau of Emergency Communications treats an alarm signal as a valid alarm and dispatches police resources.

**V. Primary trunk line** means a telephone line serving the Bureau of Emergency Communications that is designated to receive emergency calls.

**W. Residential properties** means a dwelling where individuals are living. Residential property includes both private and rented accommodations.

**X. Robbery alarm system** means an alarm system signaling a robbery or attempted robbery. May be referred to as a “duress alarm” system generated by the manual activation of a device intended to signal a life-threatening situation or a crime in progress requiring law enforcement response.

**Y. Sheriff** means Sheriff of Multnomah County or their designated representative.

**Z. Senior permit** means any alarm user who is over the age of 62 and provides documentation of proof of age whose primary address is the location of the alarm site.

**AA. System Administrator or Administrator** means the individual designated by the Chief of Police to manage the Alarms Administration Unit. The unit is responsible for permit issuance, assessments of charges, education of alarm system users, and the conducting of appeals hearings.

**BB. Sound emission cutoff feature** means a feature of an alarm system which will cause an audible alarm to stop emitting sound.

**CC. Special permit** means any alarm site required by federal, state, county or municipal statute, regulation, rule or ordinance to install, maintain, and operate an alarm system.

**DD. System becomes operative** means when the alarm system is capable of eliciting a response by police.

**EE. Unpreventable conditions** means those acts of nature which cause activation of an Alarm System without fault of the Alarm System, or Alarm User, criminal

activity, or any other emergency. Such acts include, but are not limited to, earthquakes, floods, and high-speed winds, and acts of wild animals. Acts of domesticated animals, regardless of that animal's ownership, are not considered unpreventable conditions.

#### **14B.10.030 Permitting Required; Application and Renewal; Violations and Remedies.**

**A.** Every alarm system user must obtain an alarm user's permit for each system installed in their home (owned or rented) or business from the Alarm Administration Office prior to the installation of a monitored alarm system. Each permit must bear the signature of the Chief of Police and is valid for a one-year period immediately following issuance of the permit. The permit must be kept upon the premises using the alarm system and be available for inspection by responding law enforcement entities.

**B.** An alarm system monitoring company that establishes a new client account with any residential or business consumer will ensure that an alarm user's permit has been issued through the Alarm Administration Office prior to activating a new alarm account. Requirement of this proof is a one-time requirement; responsibility for renewal transfers to the alarm user after initial activation of the alarm system.

**C.** A yearly alarm permit fee, permit surcharge, late payment fee, and permit renewal fee will be established by Portland Police Bureau and provided with the bureau's annual budget submission subject to the City's Financial Policy FIN. 2.06 cost recovery methodology.

**D.** If a residential alarm user is over the age of 62 and resides where the permitted alarm is located and if no business is conducted in the residence, a senior's permit may be obtained from the Alarms Administration Office according to Subsection 14B.10.030 A. without the payment of a fee.

**E.** Calls for emergency response to an alarm event by an alarm business must include the corresponding alarm permit number.

**F.** In addition to the fee provided in Subsection 14B.10.030 C., a surcharge penalty will be charged to any alarm service user that fails to obtain a permit within 30 days after the system becomes operative.

**G.** The alarm user will be in violation of Subsection 14B.10.030 A. if they fail to annually renew the alarm permit within 30 days after the permit expires. The alarm user may cure this violation and not face a code enforcement action if they renew their permit and pay all fees and fines within 45 days from the date of expiration.

**H.** Police will not respond to any alarm dispatches where the alarm system user's permit has expired and 45 days have passed since expiration with no attempt by the alarm system user to cure their defaults.



I. The remedy for a failure to cure after 45 days from permit expiration is the cancellation of the permit and notice by the System Administrator or designee to the alarm system monitoring company of the cancellation. Any reinstallations or reactivations after a cancellation under this Section will require a new permit application and the payment of fees for a new permit. If cancelled under this Subsection, the alarm system monitoring company will have to obtain proof of a new permit prior to reactivation.

#### **14B.10.040 Duty of an Alarm Business to Educate an Alarm User.**

A. In addition to an alarm business' duty to inspect permits prior to initial activation as outlined in Subsection 14B.10.030 B. above, every alarm business selling, leasing or furnishing to any user an alarm system that is installed on the premises located in the area subject to this Chapter will furnish the user with instructions that provide information to enable the user to properly operate the alarm system at any time. Alarm businesses must create and maintain a standard instruction form for this purpose and document the dissemination of this form to consumers.

B. All alarm businesses must, on an annual basis, submit their standard instruction form to the System Administrator no later than January 31 of each year. If the System Administrator reasonably finds such instructions to be incomplete, misleading, unclear, or inadequate, the System Administrator may require the alarm business to revise the instruction to comply with this Chapter and to re-distribute the revised instruction to its alarm users. Penalties for noncompliance should re-instruction be required may include, but not be limited to, fines, costs, or restrictions on local business licenses.

#### **14B.10.050 Duties of the Alarm User.**

All alarm users must:

A. Obtain a permit from the Systems Administrator as outlined above and provide proof of same to the alarm system monitoring company before initial activation;

B. Renew the permit annually for as long as the alarm systems remains at the alarm site;

C. Maintain the premises of the alarm site and the alarm system in a manner that will minimize or eliminate false alarms;

D. Personally come to the alarm site or cause a representative familiar with the system to respond to the alarm site's location within 30 minutes when notified by a representative of the Portland Police Bureau to deactivate a malfunctioning alarm system, to provide access to the premises, and/or to provide alternative security for the premises, if necessary;

E. If a business, train all persons who activate the alarm system with its proper codes and operation;

**F.** If a homeowner or renter, train all adults residing in the home on proper codes and operation;

**G.** Ensure that an alarm system is repaired within 72 hours of notification that the system is malfunctioning. The permit holder may cause the alarm system to be deactivated rather than having such system repaired. A deactivated system may not be reactivated until the user verifies that it has been repaired;

**H.** Not manually activate an alarm for any reason other than the occurrence of an event that the alarm system was intended to report;

**I.** Notify the alarm system monitoring company of any extended period of time away from the alarm site, such as vacation, and will leave a responsible person's name and phone numbers with the alarm system monitoring company. This responsible person must be fully trained in the use of the alarm system and have keys and access codes;

**J.** Adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site may not sound for longer than 15 minutes after being activated;

**K.** Have a licensed alarm repair company inspect the alarm system after four false alarms within a one calendar year period. If the inspection company finds fault with the system, the alarm user will ensure, at their own cost, modification or repair of the system to be more false alarm resistant. If the inspection company finds no fault with the system and finds likely user error, the alarm user will seek additional user training from the manufacturer or seller of the alarm and/or better train other members of the household or business not to set off the alarm;

**L.** Not use automatic voice dialers;

**M.** Maintain at each alarm site a set of written operating instructions for each alarm system, as well as a copy of the alarm permit;

**N.** Provide the alarm system monitoring company with the assigned permit number for the alarm site; and

**O.** Retain the option to choose a (DIY) alarm. If their alarm is linked to an alarm monitoring service, then the following direction applies:

- 1.** The alarm user must obtain a permit from the Alarms Administration Unit prior to activation of the monitoring service;
- 2.** If their alarm is not linked to an alarm monitoring service, the alarm user does not need to obtain a permit from the System Administrator for an unmonitored system; and
- 3.** Alarm users choosing to have DIY systems with a monitoring service are

required to have professional installation prior to activation. Proof of professional installation must be provided to the Alarms Administration Unit prior to the issuance of the alarm permit.

#### **14B.10.060 Duties of the Alarm System Monitoring Company.**

An alarm system monitoring company performing monitoring services must:

- A.** Provide training on the proper use and disarming of the purchased alarm system at no additional cost to an alarm user. This training must be offered and, if accepted by the alarm user, provided during the first seven days after installation of an alarm system. If there is a false alarm in the first seven days after installation and prior to the time the alarm system monitoring company provides training, any fees or fines assessed for the false alarm will be charged against and paid by the alarm system monitoring company and not the alarm user. For this reason, alarm system monitoring companies should seek to and may provide this training contemporaneously with installation. If the alarm user declines the offered training, or once the alarm user has already received the training, any fines and fees as a result of a false alarm will be assessed against the alarm user;
- B.** Attempt to verify every alarm signal, except a duress and hold-up alarm activation, before requesting a law enforcement response to an alarm system signal by contacting at least two responsible parties for the alarm system, unless there is only one responsible party listed in customer documents. The first call placed should be to the alarmed premise for a request for the false alarm password. If there is no answer, the alarm system monitoring company must try one or more additional phone numbers in an attempt to reach the alarm user(s) or a designated responsible party;
- C.** Ensure that all alarm users of alarm systems equipped with a duress or hold-up alarm are given adequate training as to the proper usage of these features;
- D.** Communicate to the Bureau of Emergency Communications operators and/or dispatchers any available information about the specific type and location of the alarm signal, e.g., north door, back door, second floor window east side, etc. (as opposed to "Zone 1" or a nondescript term that will not communicate to the responding officer where the problem occurred);
- E.** Communicate to the Bureau of Emergency Communications operators and/or dispatchers the type of alarm activation (silent, audible, interior, perimeter etc.) during an alarm event;
- F.** Provide the alarm user permit number when requested by the Bureau of Emergency Communications;
- G.** Notify the permit holder or their designee of the activation of the alarm system; and

**H.** Obtain proof of an active alarm permit from the alarm user prior to installation or activation of the alarm system (or reinstallation or reactivation if the prior permit was canceled by the Portland Police Bureau for nonrenewal or nonpayment), document same, and notify the Alarm Administration Unit that proof was supplied prior to installation.

#### **14B.10.070 Requirement for Posting Notice of an Alarm; Violation; Remedy for Failure to Post.**

**A.** For a business alarm user (and not a homeowner alarm user), it is unlawful for a person having control of premises where a burglar alarm and/or robbery alarm system exists to fail to have conspicuously posted, where it may be plainly seen by persons outside the premises, notice of the existence of an alarm. The notice must include the name, address, and telephone number of a person who possesses a key and has access to the premises.

**B.** A violation of this Section may subject the violator to a fine or other civil penalties at the discretion of the System Administrator; however, the System Administrator will assess no penalties until or unless notice of the violation is provided to the business owner and they fail to cure the violation within 30 days of notification.

#### **14B.10.080 Burglary, Robbery, and Other Police Alarm System Fines and Penalties.**

**A.** Fines are assessed by the System Administrator for excessive false alarms during a permit year. The fine and fee schedule will be set through the annual budget process and subject to review by the City Budget Office with all Portland Police Bureau fees and charges. This is in accordance with guidelines provided in FIN 2.06.

**B.** The Alarm Administration Unit will send a written notification of any false alarm incident to notify the alarm user, alarm business, and/or alarm system monitoring company. The notice will set forth the fine and the consequences of the failure to pay the fine. The notice will also acquaint the recipient with the relevant appeals process and their right to appeal the validity of the false alarm to the Administrator or designee in case of absence or leave of service, as provided in Section 14B.10.120.

**C.** The first false alarm notice in a permit year will not be assessed a fine and instead will act as a warning. No further warnings without a fine may be assessed in a permit year.

**D.** If the payment of the fine has not been received in the Alarm Administration Unit within 30 days of the date the written notice of fine was mailed by the Administrator, and there is no appeal pending on the validity of the false alarm, the Administrator will send an overdue notice to the alarm user, alarm business, or alarm system monitoring company by certified mail, along with a notice of late fee.

**E.** If payment of all fines and late fees is not received within 10 days of the day the notice of late fee was mailed, the System Administrator will initiate the no response process according to Section 14B.10.090 and may initiate the enforcement of penalties according to Section 14B.10.150.

**F.** The payment of any fine may not be deemed to extend the term of the permit.

#### **14B.10.090 No Response to Excessive Alarms and/or Premises with Cancelled Permits.**

**A.** After a second false alarm, the System Administrator will send a notification to the alarm user by certified mail, which will contain the following information:

- 1.** That a second false alarm has occurred;
- 2.** That if four or more false alarms occur within the permit year, the System Administrator will direct the Bureau of Emergency Communications to suspend response to further alarm signals; and
- 3.** That the alarm user has the right to contest the validity of a false alarm determination by requesting a false alarm validity hearing, and that a request for such a hearing will stay the effect of a false alarm determination and must be in writing and filed within 10 days of the receipt of the notice of alarm.

**B.** After a third false alarm in a permit year, the System Administrator need only send to the alarm user via regular mail a Notice of False Alarm and appeal rights. No other communication or action is required of the System Administrator.

**C.** After a fourth false alarm within the permit year, the System Administrator will:

- 1.** Direct the Bureau of Emergency Communications to suspend response to subsequent alarms unless instructed to respond by the Chief's Office or their designee pursuant to Section 14B.10.090.
- 2.** Send a suspension notification to the alarm user by certified mail, indicating that Portland Police Bureau will no longer respond to alarms at the alarm site, but that the Portland Police Bureau will resume alarm response services if the following conditions are met:
  - a.** additional monitoring services are added to the permit location, consisting of either audio and/or video verification monitoring or multiple-device trigger systems;
  - b.** any outstanding fees and fines associated with the alarm permit account are paid in full; and
  - c.** the alarm user agrees in writing that a fifth or more false alarm in a permit year will result in a permanent cancellation of all premises use

permits and the suspension of police response services for alarm calls for five years, plus triple the amount of fines and fees in the fines and fees schedule.

**D.** In addition to the notice provided to the alarm user, the System Administrator will also send a copy of the notice of suspension to the Bureau of Emergency Communications and the alarm system monitoring company.

#### **14B.10.100 Special Permits.**

An alarm user required by federal, state, county or municipal statute, regulation, rule, or ordinance to install, maintain and operate an alarm system is subject to this Chapter, provided:

**A.** A permit is designated a special alarm user's permit. An alarm user seeking this type of special permit must submit proof of their eligibility for a special use permit (i.e., the federal, state, or local law requiring an alarm system) along with their permit application. Special alarm use permits will be issued at the same cost as a regular alarm user permit (except for alarm users over age 62 as outlined in this Chapter);

**B.** A special alarm user's permit for a system which has four false alarms in a permit year will not be subject to the no response procedure specified but must pay any fines according to the regular fine schedule in this Chapter; and

**C.** The payment of any fine provided for in Subsection 14B.10.100 B. will not be deemed to extend the term of the permit.

#### **14B.10.110 Automatic Dialing Device; Certain Interconnections Prohibited.**

**A.** It is unlawful for any person to program an automatic dialing device to select a primary trunk line, and it is unlawful for an alarm user to fail to disconnect or reprogram an automatic dialing device which is programmed to select a primary trunk line within 12 hours of receipt of written notice from the Administrator that it is so programmed.

**B.** It is unlawful for any person to program an automatic dialing device to select any telephone line assigned to the City, and it is unlawful for an alarm user to fail to disconnect or reprogram such device within 12 hours of receipt of written notice from the Administrator that an automatic dialing is so programmed.

**C.** A violation of this Section may subject the violator to a fine or other civil penalties at the discretion of the System Administrator; however, the System Administrator will assess no penalties unless notice of the violation is provided to the alarm user and they fail to cure the violation within 30 days of notification.

#### **14B.10.120 Appeals.**

**A.** An alarm user may challenge the validity of a false alarm determination by appealing the determination. The appeal request must be in writing (email or standard mail) and must be submitted to the System Administrator within 10 days of the alarm user having received Notice of False Alarm. Failure to contest the determination in the required time period results in a conclusive presumption that the alarm was false and waiver of any claims or defenses regarding the false alarm or associated penalties.

1. All first-time offenses will be considered a warning, and no economic penalty will be applied. Because there are no economic damages, no appeal of a first offense warning will be allowed.

2. However, first offenses will count toward the cumulative number of offenses in any permit year. Should an alarm user wish to raise on appeal the impropriety of the first offense for purposes of having it not count toward the cumulative permit year total, the alarm user may challenge the validity of their first offense in addition to the validity of the offense that they are currently appealing. The effect of a finding that the first offense was improper will only act to strike that offense from the permit year total; no economic or other relief is available.

**B.** Appeal requests must include all documentation that a cited alarm user wishes the System Administrator to review. An alarm user appellant may include in this documentation a written statement setting forth their arguments as to facts and defenses. Any written statement may not exceed 15 pages.

**C.** The Appeal request and all documentation will be reviewed and decided by the System Administrator or designee. In no event will the person reviewing and deciding the appeal also be the person that issued the false alarm determination. The appeal will be decided solely on the documentation presented without testimony, except as noted in Subsection D. below.

**D.** Alarm users over the age of 62 who have obtained a senior permit and alarm users with a verifiable disability may, as part of their Appeal Request, ask for a telephonic hearing in lieu of submitting written documentation. (Deaf persons or persons with a hearing impairment may also request additional accommodations such as an in-person hearing with the presence of a sign-language interpreter.)

1. If the request for a telephonic hearing is made and approved, the Alarms Administration Unit will contact the requester by telephone or email to schedule a hearing. While the Alarm Administration Unit will schedule the hearing, the alarm user is obligated to attend or call in to the hearing. An alarm user's failure to do so waives their right to present any additional information for consideration of the appeal and will be justification for dismissal of the appeal.

2. In any case where a telephonic hearing (or in-person hearing as a reasonable accommodation) has been held, the appeal will be decided on the basis of the testimony provided and any other relevant documentation submitted, but alarm

users will not also be allowed to present a written statement for consideration.

**3.** Any hearing held will be informal and not subject to Oregon Rules of Civil Procedure or Oregon Rules of Evidence. The appellant is limited to giving a statement and/or submitting additional documentary evidence and will not engage in eliciting direct testimony or conducting cross-examination.

**4.** The hearing will be audio recorded, but not transcribed. The alarm user may request a copy of the recording to be transcribed at their own cost.

**E.** The System Administrator or designee deciding the appeal will render a decision within 30 days after receipt of the appeal request or after any hearing, as applicable. The System Administrator must document the decision in writing, setting forth the reasons for the decision, and take any further steps necessary to effectuate their decision. The System Administrator will, contemporaneously with rendering the written decision, send a copy of the written decision to the alarm user either via regular mail or email (as indicated in their permit application).

**F.** If the appeal is granted and it is determined that the false alarm at issue did not occur, then the findings will be waived and expunged from an alarm user's record and will not be counted toward the yearly permit amount for any other purposes of this Chapter. If the appeal is denied and the false alarm designation remains on the alarm user's record, the Administrator may pursue fine collection and/or permit cancellation as set out in this Chapter.

#### **14B.10.130 Sound Emission Cutoff Feature.**

**A.** Alarm systems which can be heard outside a building, structure or facility of the alarm user must be equipped with a sound emission cutoff feature which will stop the emission of sound 15 minutes or less after the alarm is activated.

**B.** When an alarm system may be heard outside a building, structure or facility for more than 15 minutes continuously or intermittently, and the alarm owner or alarm system monitoring company is not readily available or able to silence the device, the Portland Police Bureau is authorized to enter the premises and physically disconnect the sounding device. The alarm owner is liable for the cost of, or associated with, disconnecting and reconnecting the alarm. Neither the City nor its officers, agents or employees are liable for such costs.

#### **14B.10.140 Confidentiality and Statistics.**

**A.** All information submitted in compliance with this Chapter will be deemed a public record. Applicable privacy and confidentiality exemptions pursuant to ORS 192.355 will be applied to any requests to records regarding this Chapter. The Administrator is charged with the sole responsibility for the maintenance, disclosure, retention, and destruction after expiration of the retention schedule of all records of any kind whatsoever under this Chapter.



**B.** Subject to the requirements of confidentiality, the Administrator may develop and maintain statistics having the purpose of assessing alarm system, alarm business, and alarm system monitoring company performance and compliance.

#### **14B.10.150 Code Enforcement Actions; Penalties.**

**A.** Enforcement of this ordinance may be by civil action as provided in ORS 30.315, or by criminal prosecution.

**B.** Violation of this ordinance is punishable upon conviction by a fine of not more than \$500.

**C.** The failure or omission to comply with any Section of this ordinance will be deemed a violation and may be so prosecuted, subject to the penalty provided in Subsection B. of this Section.

#### **14B.10.160 Liability.**

Law enforcement response to an alarm may be based on factors such as: availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and other factors. For these reasons, the permitting of an alarm system and regulation thereof by the Portland Police Bureau is not intended to, nor will it, create a contract, duty or obligation, or special relationship, either expressed or implied, between the City and an alarm user, assuring police response to the alarm. Any and all liability and consequential damages that may result from the Portland Police Bureau's failure to respond to an alarm notification is subject to governmental immunity as provided by law and is retained.

### **Chapter 14B.20 Drug-Free Zones**

#### **14B.20.010 Drug-Free Zones.**

**A.** For the purposes of this Chapter, the following definitions apply:

**1. Arrest** means to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense.

**2. Essential needs** means food, physical care, and medical attention.

**3. Reside** means to occupy one's principal dwelling; including transient occupancy in a hotel or motel.

**4. Travel** means the movement on foot or within or upon a vehicle within a drug-free zone from one point to another without delay other than to obey traffic control devices.

**B.** Drug-free zones are those areas of the City as designated by the City Council under Chapter 14B.20 of this Code, which are areas where the number of arrests where there was probable cause to believe a person has committed any of the offenses enumerated in Section 14B.20.030 for a 12-month period within the 18 months preceding its designation is significantly higher than that for other similarly sized geographic areas of the City that are not located within a drug-free zone.

#### **14B.20.020 Designation of Drug-Free Zones.**

**A.** If the City Council designates an area meeting the criteria of Section 14B.20.010 of this Code to be a drug-free zone, Council must do so by ordinance. The designation is valid for a period of three years.

**B.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least 90 days before the end of the period referred to in Subsection 14B.20.020 A., as to whether there is a need to re-configure the drug-free zones enumerated in 14B.20.070.

**C.** This Chapter, and the procedures and exercise of exclusion authority it contains, are valid until September 30, 2007.

**D.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least 90 days before the expiration of this Chapter as to whether there is a need to re-authorize this Chapter.

#### **14B.20.030 Civil Exclusion.**

**A.** A person is subject to exclusion under the process described in this chapter for a period of 90 days from any public right-of-way and park within a drug-free zone designated in Chapter 14B.20 if that person has been arrested and either cited to appear in court for charging or lodged in jail for presentation to a magistrate for charging based upon probable cause to believe that the person has committed any of the following offenses within that drug-free zone, unless the offense was committed entirely within a private residence:

1. Attempt to unlawfully possess a controlled substance, in violation of ORS 161.405 and ORS 475.752;

2. Criminal solicitation to unlawfully possess a controlled substance in violation of ORS 161.435 and ORS 475.752;

3. Criminal conspiracy to unlawfully possess a controlled substance in violation of ORS 161.450 and ORS 475.752;

4. Any violation of any of the controlled substance offenses described in:

a. ORS 475.752;

- b.** ORS 475.846 through 475.894;
- c.** ORS 475.904; or
- d.** ORS 475.910.

**5.** Criminal conspiracy to unlawfully deliver a controlled substance in violation of ORS 161.450 and ORS 475.752;

**6.** Attempt to unlawfully deliver an imitation controlled substance, in violation of ORS 161.405 and ORS 475.752;

**7.** Criminal conspiracy to unlawfully deliver an imitation controlled substance in violation of ORS 161.450 and ORS 475.912; or

**8.** Unlawful delivery of an imitation controlled substance, in violation of ORS 475.912.

**B.** A one year exclusion from any public right-of-way and park within a drug-free zone takes effect the day after conviction for any of the offenses enumerated in Subsection A if that offense was committed within that drug-free zone and the person was both given actual notice prior to the exclusion that the City would impose a one-year exclusion upon conviction and notified of the right of appeal including the process for initiating an appeal.

**C.** A person excluded from a drug-free zone under authority of this Section may not enter that drug-free zone except to travel to and from and be present at the events and locations listed below:

- 1.** Attend a meeting with an attorney;
- 2.** Attend a scheduled initial interview with a social service provider;
- 3.** Comply with court-or corrections-ordered obligations;
- 4.** Contact criminal justice personnel at a criminal justice facility;
- 5.** Attend any administrative or judicial hearing relating to an appeal of:
  - a.** the person's notice of exclusion; or
  - b.** the denial, revocation, or amendment of the person's variance;
- 6.** Travel through that drug-free zone on a TriMet vehicle; or
- 7.** Travel through that drug-free zone on the I-5, I-84 or I-405 freeways within its boundaries;
- 8.** Reside in a dwelling or facility;

**9.** Satisfy, or attempt to satisfy an essential need by accessing a public or private place that provides an essential need or service when the essential need cannot reasonably be satisfied by the excluded person without entering the drug-free zone;

**10.** Obtain social services when:

- a.** the excluded person is in need of social services;
- b.** the social services are sought for reasons relating to the health or well-being of the excluded person; and
- c.** the social services agency has written rules and regulations prohibiting the unlawful use and sale of controlled substances by their clients.

**11.** Obtain education by:

- a.** enrolling as a student at an educational facility; or
- b.** attending school at an educational facility;

**12.** Work as the owner, principal, agent or employee at a place of lawful employment;

**13.** Perform work directly related to lawful employment; or

**14.** Be present at any place or event as specified by a variance issued by the Chief of Police or designee pursuant to Subsection 14B.20.060 B.

**D.** An exclusion is valid only if the person to be excluded received actual notice of the exclusion as required by Section 14B.20.050; including notice of the limitations to the exclusion contained in Section 14B.20.020.

**E.** An exclusion is not valid if the probable cause on which it is based consists of mere use or effects of use of controlled substances rather than criminal acts concerning controlled substances as defined by Oregon statute, whether or not the person subject to exclusion pursues an appeal of the exclusion.

#### **14B.20.035 Violation of an exclusion - penalties.**

**A.** It is unlawful for a person to enter or remain in a drug-free zone in violation of a valid exclusion imposed pursuant to this Code. For violation of this Subsection, a court may impose a fine of no more than \$500 or imprisonment of no more than 30 days, or both.

**B.** A person who enters or remains in a drug-free zone in violation of a valid exclusion issued pursuant to this Code is subject to arrest for Criminal Trespass (ORS 164.245).

### **14B.20.040 Issuance of Exclusion Notices.**

The Chief of Police and/or designees are the persons in charge of the public rights of way and parks in the drug-free zones for purposes of issuing notices of exclusion in accordance with this Chapter.

### **14B.20.050 Procedure.**

**A.** If a person is arrested and either cited to appear in court for charging or lodged in jail for presentation to a magistrate for charging based upon probable cause to believe that the person has committed any of the offenses enumerated in Subsection 14B.20.030 A. within a drug-free zone, the Chief of Police and/or designees may exclude that person from that drug-free zone. Every person excluded must be provided a notice of exclusion and variances substantially similar to Exhibit C attached to Ordinance 179995. Additions to the notice of exclusion that increase the scope of the exclusion from that described in Exhibit C render the notice and the exclusion invalid.

**B.** At the time a person is issued a notice of exclusion from a drug-free zone, the Chief of Police and/or designees may discuss with the excluded person whether the person has a plausible need for a variance and may issue a variance pursuant to the process described in Subsection 14B.20.060 B.

**C.** The notice of exclusion must be in writing and a copy delivered to the excluded person. The notice of exclusion must include the following:

1. A description of the areas designated as a drug-free zone in Section 14B.20.070 from which that person is excluded;
2. Information concerning the right to appeal the exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code; and
3. Notice that conviction of the offense for which the person was arrested and excluded will result in a one-year exclusion and information concerning the right to appeal a conviction-based exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code.

### **14B.20.060 Appeal, Review and Variances.**

**A.** A 90 day exclusion will take effect at 12:01 a.m. on the 22nd calendar day following issuance of the notice of exclusion if the person issued the notice of exclusion has not filed an appeal as provided in this Chapter and a Code Hearing Officer has reviewed a police report documenting the exclusion notice and has found that the report presents credible evidence that supports probable cause to believe the person:

1. Committed any of the offenses enumerated in Subsection 14B.20.030 A. within a drug-free zone; and

**2.** Received the notice required by Subsection 14B.20.050 A.

**B.** If a person issued a notice of exclusion files an appeal as provided in this Chapter, imposition of a 90 day exclusion will be stayed pending a final, enforceable decision upholding the exclusion.

**C.** Appeal. A person to whom notice of exclusion is issued has a right to appeal as follows:

**1.** Appeals must be made to the Code Hearings Officer of the City of Portland. Any hearings regarding such appeals will be conducted in accordance with Chapter 22.10 of this Code;

**2.** Copies of documents in the City's control which are intended to be used at the hearing will be made available, upon request, to the appellant;

**3.** An appeal of a 90 day notice of exclusion must be filed, in writing, by 5:00 p.m. of the fifteenth calendar day following issuance of the notice of exclusion;

**4.** An appeal of a one year conviction-based exclusion must be filed, in writing, by 5:00 p.m. of the fifth business day following the date of conviction;

**5.** An appeal of:

**a.** a denial of a request for a variance;

**b.** a denial of a request for an amendment to a variance; or

**c.** a revocation or amendment of a variance must be filed, in writing, by 5:00 p.m. of the fifth business day following the action regarding the variance;

**6.** A 90 day exclusion will not take effect during the time that an appeal of the 90 day exclusion is pending;

**7.** A one year conviction-based exclusion will take effect at 12:01 a.m. on the calendar day following the date of conviction and, notwithstanding an appeal of the exclusion, will remain in effect unless the Code Hearings Officer issues a contrary decision;

**8.** At the hearing on an appeal of a 90 day exclusion, the City has the burden to show by a preponderance of the evidence that the appellant committed any of the offenses enumerated in Subsection 14B.20.030 A., and that the conduct supporting the exclusion occurred within a drug-free zone;

**9.** At the hearing on an appeal of a one year conviction-based exclusion, the City has the burden to show by a preponderance of the evidence that the appellant was convicted of any of the offenses enumerated in Subsection 14B.20.030 A.,

and that the conduct supporting the conviction occurred within a drug-free zone;

**10.** At the hearing on an appeal of a denial of a request for a variance as provided in Subsection 14B.20.060 C.5.a., the City has the burden to show by a preponderance of the evidence that the denial was in accordance with this Section;

**11.** At the hearing on an appeal of a denial of a request for an amendment to a variance as provided in Subsection 14B.20.060 C.5.b., the City has the burden to show by a preponderance of the evidence that the denial was in accordance with this Section;

**12.** At the hearing on an appeal of a revocation or amendment of a variance as provided in Subsection 14B.20.060 C.5.c., the City has the burden to show by a preponderance of the evidence that any of the conditions enumerated in this Section supporting revocation or amendment existed at the time of revocation or amendment;

**13.** At the hearing on an appeal of a 90 day exclusion, the following is prima facie evidence that the exclusion was based on probable cause to believe that the appellant committed any of the offenses enumerated in Subsection 14B.20.030 A.:

**a.** a determination by a court having jurisdiction over the offense that forms the basis for the exclusion, that probable cause existed to arrest the person to whom the initial 90 day notice of exclusion was issued for violation of any of the offenses enumerated in Subsection 14B.20.030 A.; or

**b.** an accusatory instrument charging the person to whom a 90 day notice of exclusion was issued, for violation of any of the offenses enumerated in Subsection 14B.20.030 A; and

**14.** At the hearing on an appeal of a one year conviction-based exclusion, a judgment of conviction for any of the offenses that formed the basis for the exclusion, as enumerated in Subsection 14B.20.030 A., is conclusive evidence that the described conduct occurred, but, absent a finding of fact by the court of conviction, is not conclusive evidence that the conduct occurred in a drug-free zone.

**D. Variances.** Variances modify an exclusion, and will be granted, denied, amended, or revoked in accordance with the following provisions:

**1.** All variances will be in writing and state the purpose for which they are granted and the period of time during which they are effective. A variance that does not describe its period of effectiveness is effective for the duration of the exclusion. A variance allows relief from an exclusion only for travel to and from specified locations, activities or events, and presence at specified locations, activities, and

events within a drug-free zone;

**2.** All Police Bureau Precincts must receive and process requests for Drug-Free or Prostitution Free Zone variances during regular business hours if they are otherwise open to the public. This capability will be maintained at the main precinct station or at a sub-station; and

**3.** The Chief of Police and/or designees may, for any reason, grant an excluded person a variance from an exclusion at any time during an exclusion period. Except as described in Subsection 14B.20.050 B., the Chief of Police and/or designees will grant an appropriate variance to an excluded person who presents a plausible need to engage in any non-criminal activity that is not associated with the behavior supporting the person's exclusion. A variance granted under this Subsection allows travel within the drug-free zone only in accordance with the terms specified in the variance. The Chief of Police or designees will ask a person requesting a variance to provide and update an address through which the person can be reached for the duration of the variance in the event the City determines there is a need to amend or revoke the variance.

**E.** Revocation or amendment of variances. A variance may be revoked or amended for the following reasons and in the following manner:

**1.** The excluded person provided false information in order to obtain the variance;

**2.** There is probable cause to believe the person has committed any of the offenses enumerated in Subsection 14B.20.030 A. in the drug-free zone subsequent to the issuance of the variance;

**3.** The circumstances giving rise to the issuance of the variance no longer support a continuation of the variance or a term thereof;

**4.** If the person presents new circumstances that would support amending the variance; or

**5.** A revocation or amendment of a variance becomes effective at 5:00 p.m. of the fifth business day following mailing of notice of the action to the excluded person at the address provided pursuant to Subsection 14B.20.060 B.1. unless the excluded person appeals the determination by following the procedures in Subsection 14B.20.060 A.5.c.

## **14B.20.070 Listing of Drug-Free Zones.**

The following descriptions comprises the boundaries of the drug-free zones listed, and the drug-free zones will include the entire area on and within the listed boundaries.

**A.** Central Zone: Beginning at a point on the north edge of the Steel Bridge directly above the west shore of the Willamette River; thence westerly along the north edge of the Steel Bridge and continuing along the north edge of the northern most off-



ramp from the Steel Bridge until it intersects with the east curb line of NW 3rd Ave; thence northerly along an extension of the east curb line of NW 3rd Ave until that line intersects with an extension of the north curb line of NW Hoyt St; thence westerly along the extension of the north curb line of NW Hoyt St until it intersects with the east curb line of NW 4<sup>th</sup> Ave; thence in a northwesterly direction along the east curb line becoming the north curb line of NW 4<sup>th</sup> Ave as it intersects with NW 5<sup>th</sup> Ave and becomes NW Irving St; thence continuing westerly along the north curb line of NW Irving St until it intersects with the west curb line of NW Broadway Avenue; thence southerly along the west curb line of NW Broadway Ave until it intersects with the north curb line of NW Hoyt St; thence westerly along the north curb line of NW Hoyt St until it intersects with the west curb line of NW 15<sup>th</sup> Ave; thence southerly along the west curb line of NW 15<sup>th</sup> Ave until it intersects with north curb line of NW Glisan St; thence westerly along the north curb line of NW Glisan St until it intersects with the east curb line of NW 16<sup>th</sup> Ave; thence northerly along the east curb line of NW 16<sup>th</sup> Ave until it intersects with the north curb line of NW Irving St; thence westerly along the north curb line of NW Irving St until it intersects with the west curb line of NW 23<sup>rd</sup> Ave; thence southerly along the west curb line of NW 23<sup>rd</sup> Ave until it intersect with the south curb line of W Burnside St; thence easterly along the south curb line of W Burnside St until it intersects with the west curb line of SW King Ave; thence southerly along the west curb line of SW King Ave until it intersects with the south curb line of SW Salmon St; thence easterly along the south curb line of SW Salmon St until it intersects with the west curb line of SW 14<sup>th</sup> Ave; thence southerly along the west curb line of SW 14<sup>th</sup> Ave until it intersects with the south curb line of SW Columbia St; thence easterly along the south curb line of SW Columbia St until it intersects with the west curb line of SW 13<sup>th</sup> Ave; thence southerly along the west curb line of SW 13<sup>th</sup> Ave until it intersects with the south curb line of SW Market St; thence easterly along the south curb line of SW Market St to a point where the extension of the south curb line of SW Market St intersects with the east curb line of SW Naito Pkwy; thence easterly from that point continuing in a direct line due east to the west shore of the Willamette River; thence northerly along the west shore of the Willamette River until it intersects with the south edge of the Hawthorne Bridge; thence easterly along the south edge of the Hawthorne Bridge until it intersects with the east edge of the area known as the East Bank Esplanade, including the circular ramp on the east end and south side of the Hawthorne Bridge; thence northerly along the east edge of the area known as the East Bank Esplanade, including all of its floating walkways, until it intersects with the south side of the East Bank Esplanade pedestrian overpass to NE Lloyd Blvd; thence easterly along the south edge of the area known as the East Bank Esplanade pedestrian overpass, including the walking ramp, until it intersects with the west curb line of NE Lloyd Blvd; thence southeasterly along the south curb line of NE Lloyd Blvd until it intersects with the west curb line of NE Martin Luther King Blvd; thence southerly along the west curb line of NE Martin Luther King Blvd until it intersects with the north curb line of NE Davis St; thence westerly along the north curb line of NE Davis as it crosses NE 3<sup>rd</sup> Ave and projects in a straight line to a point on the west curb of NE 2<sup>nd</sup> Ave; thence southerly along the west curb line of NE 2<sup>nd</sup> Ave as it passes under the Burnside Bridge, including the entire Burnside Bridge, until it intersects

with the south curb line of SE Belmont St; thence easterly along the south curb line of SE Belmont St until it intersects with the east curb line of SE 12<sup>th</sup> Ave; thence northerly along the east curb line of SE 12<sup>th</sup> Ave as it crosses E Burnside St and becomes NE 12<sup>th</sup> Ave; thence northerly along the east curb line of NE 12<sup>th</sup> Ave until it intersects with the south curb line of NE Lloyd Blvd; thence easterly along the south curb line of NE Lloyd Blvd until it becomes NE 16th Ave; thence northerly along the east curb line of NE 16th Ave until it becomes NE 15th Ave; thence northerly along the east curb line of NE 15th Ave until it intersects with the north curb line of NE Halsey St; thence westerly along the north curb line of NE Halsey St until it intersects with the west curb line of NE Martin Luther King Blvd; thence southerly along the west curb line of NE Martin Luther King Blvd until it intersects with the north curb line of NE Multnomah Str; thence westerly along the north curb line of N.E. Multnomah Street as it merges onto the Steel Bridge; thence westerly along the north edge of the Steel Bridge to a point above the west shore of the Willamette River and continuing down to the point of the beginning.

**B. East Zone:** Beginning at a point 1,000 feet west of the intersection of the north curb line of NE Killingsworth and the west curb line of NE 82<sup>nd</sup> Ave; thence southerly following a line that is at all times parallel to and 1,000 feet from the west curb line of NE 82<sup>nd</sup> Ave as it crosses E Burnside St and becomes SE 82<sup>nd</sup> Ave; thence southerly following a line that is at all times parallel to and 1,000 feet from the west curb line of SE 82<sup>nd</sup> Avenue to a point that is 1,000 feet to the west of the southwest corner of SE Crystal Springs Blvd; thence easterly along the south curb line of SE Crystal Springs Blvd to a point that is 1,000 feet to the east of the southeast corner of SE Crystal Springs Blvd; thence northerly following a line that is at all times parallel to and 1,000 feet from the east curb line of SE 82<sup>nd</sup> Ave as it crosses E Burnside St and becomes NE 82<sup>nd</sup> Ave; thence northerly following a line that is at all times parallel to and 1,000 feet from the east curb line of NE 82<sup>nd</sup> Ave to a point that is 1,000 feet east of the north curb line of NE Killingsworth; thence westerly along the north curb line of NE Killingsworth continuing to the point of beginning.

**C. North Zone:** Beginning at a point on the southwest corner of N Fremont St as it intersects with N Missouri Ave; thence easterly along the south curb line of N Fremont Str until it intersects with the west curb line of N Vancouver Ave; thence southerly along the west curb line of N Vancouver Ave until it intersects with the south curb line of N Stanton St; thence easterly along the south curb line of N Stanton St as it crosses N Williams Ave and becomes NE Stanton St; thence easterly along the south curb line of NE Stanton St until it intersects with the west curb line of NE Rodney Ave; thence southerly along the west curb line of NE Rodney Ave until it intersects with the south curb line of NE San Rafael St; thence easterly along the south curb line of NE San Rafael Street until it intersects with the east curb line of NE 7<sup>th</sup> Ave; thence northerly along the east curb line of NE 7<sup>th</sup> Ave until it intersects with the south curb line of NE Wygant St; thence easterly along the south curb line of NE Wygant St until it intersects with the east curb line of NE 14<sup>th</sup> Ave; thence northerly along the east curb line of NE 14<sup>th</sup> Ave until it intersects with the south curb line of NE Wygant St; thence easterly along the south curb line of NE Wygant St until it intersects with the east curb line of NE 20<sup>th</sup> Ave; thence northerly

along the east curb line of NE 20<sup>th</sup> Ave until it intersects with the north curb line of NE Killingsworth St; thence westerly along the north curb line of NE Killingsworth Street until it intersects with the east curb line of NE 15<sup>th</sup> Ave; thence northerly along the east curb line of NE 15<sup>th</sup> Ave until it intersects with the north curb line of NE Ainsworth St; thence westerly along the north curb line of NE Ainsworth St until it intersects with the east curb line of NE 10<sup>th</sup> Ave; thence northerly along the east curb line of NE 10<sup>th</sup> Ave until it intersects with the north curb line of NE Portland Blvd; thence westerly along the north curb line of NE Portland Blvd until it intersects with the west curb line of NE 6<sup>th</sup> Ave; thence southerly along the west curb line of NE 6<sup>th</sup> Ave until it intersects with the north curb line of NE Portland Boulevard; thence westerly along the north curb line of NE Portland Blvd until it intersects with the west curb line of NE Martin Luther King Jr. Blvd; thence southerly along the west curb line of NE Martin Luther King Jr. Blvd until it intersects with the north curb line of NE Ainsworth St; thence westerly along the north curb line of NE Ainsworth St as it crosses N Williams Ave and becomes N Ainsworth St; thence westerly along the north curb line of N Ainsworth St until it intersects with the west curb line of N Missouri Ave; thence southerly along the west curb line of N Missouri Ave until it intersects with the north curb line of N Killingsworth St; thence westerly along the north curb line of N Killingsworth St until it intersects with the west curb line of N Concord Ave; thence southerly along the west curb line of N Concord Ave, including all of the Going Street Pedestrian Bridge until it intersects with the south curb line of N Skidmore St; thence easterly along the south curb line of N Skidmore St until it intersects with a point extending in a straight line from the west curb line of N Missouri Ave where it meets Interstate 5; thence southerly along the west curb line of N Missouri Ave to the point of beginning.

## Chapter 14B.30 Prostitution-Free Zones

### 14B.30.010 Prostitution-Free Zones.

**A.** For the purposes of this Chapter, the following definitions apply:

- 1. Arrest** means to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense.
- 2. Essential needs** means food, physical care, and medical attention.
- 3. Reside** means to occupy one's principal dwelling; including transient occupancy in a hotel or motel.
- 4. Travel** means the movement on foot or within or upon a vehicle within a prostitution-free zone from one point to another without delay other than to obey traffic control devices.

**B.** Prostitution-free zones are those areas of the City as designated by the City Council under Chapter 14B.30 of this Code, which are areas where the number of

arrests where there was probable cause to believe a person has committed any of the offenses enumerated in Section 14B.30.030 for a 12-month period within the 18 months preceding its designation is significantly higher than that for other similarly sized geographic areas of the City that are not located within a prostitution-free zone.

### **14B.30.020 Designation of Prostitution-Free Zones.**

**A.** If the City Council designates an area meeting the criteria of Section 14B.30.010 of this Code to be a prostitution-free zone, Council must do so by ordinance. The designation is valid for a period of three years.

**B.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least 90 days before the end of the period referred to in Subsection 14B.30.020 A., as to whether there is a need to re-configure the prostitution-free zones enumerated in Section 14B.30.070.

**C.** This Chapter, and the procedures and exercise of exclusion authority it contains, are valid until September 30, 2007.

**D.** The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least 90 days before the expiration of this Chapter as to whether there is a need to re-authorize this Chapter.

### **14B.30.030 Civil Exclusions.**

**A.** A person is subject to exclusion under the process described in this chapter for a period of 90 days from any public right-of-way and park within a prostitution-free zone designated in Code Chapter 14B.30 if that person has been arrested and either cited to appear in court for charging or lodged in jail for presentation to a magistrate for charging based upon probable cause to believe that the person has committed any of the following offenses within that prostitution-free zone, unless the offense was committed entirely within a private residence:

1. Attempted prostitution, in violation of ORS 161.405 and ORS 167.007;
2. Prostitution, in violation of ORS 167.007;
3. Attempted promoting prostitution, in violation of ORS 161.405 and ORS 167.012;
4. Promoting prostitution, in violation of ORS 167.012;
5. Attempted compelling prostitution, in violation of ORS 161.405 and ORS 167.017;
6. Compelling prostitution, in violation of ORS 167.017;

**7.** Loitering to solicit prostitution, in violation of Portland City Code Section 14A.40.040; or

**8.** Unlawful prostitution procurement activity, in violation of Portland City Code Section 14A.40.050.

**B.** A one year exclusion from any public right-of-way and park within a prostitution-free zone takes effect the day after conviction for any of the offenses enumerated in Subsection A. of this Section if that offense was committed within that prostitution-free zone, the person was given prior notice that the City would impose a one-year exclusion upon conviction, and was notified of the right of appeal including the process for initiating an appeal.

**C.** A person excluded from a prostitution-free zone under authority of this Section may not enter that prostitution-free zone except to travel to and from and be present at the events and locations listed below:

- 1.** Attend a meeting with an attorney;
- 2.** Attend a scheduled initial interview with a social service provider;
- 3.** Comply with court-or corrections-ordered obligations;
- 4.** Contact criminal justice personnel at a criminal justice facility;
- 5.** Attend any administrative or judicial hearing relating to an appeal of:
  - a.** the person's notice of exclusion; or
  - b.** the denial, revocation, or amendment of the person's variance;
- 6.** Travel through that prostitution-free zone on a TriMet vehicle;
- 7.** Travel through that prostitution-free zone on the I-5, I-84, I-205 or I-405 freeways within its boundaries;
- 8.** Reside in a dwelling or facility;
- 9.** Satisfy, or attempt to satisfy an essential need by accessing a public or private place that provides an essential need or service when the essential need cannot reasonably be satisfied by the excluded person without entering the prostitution-free zone;
- 10.** Obtain social services when:
  - a.** the excluded person is in need of social services;
  - b.** the social services are sought for reasons relating to the health or well-being of the excluded person; and

c. the social services agency has written rules and regulations prohibiting the unlawful use and sale of controlled substances by their clients;

11. Obtain education by:

a. enrolling as a student at an educational facility; or

b. attending school at an educational facility;

12. Work as the owner, principal, agent or employee at a place of lawful employment;

13. Perform work directly related to lawful employment; or

14. Be present at any place or event as specified by a variance issued by the Chief of Police or designee pursuant to Subsection 14B.30.060 B.

D. An exclusion is valid only if the person to be excluded received actual notice of the exclusion as required by Section 14B.30.050; including notice of the limitations of the exclusion contained in Section 14B.30.020.

#### **14B.30.035 Violation of an exclusion - penalties.**

A. It is unlawful for a person to enter or remain in a prostitution-free zone in violation of an exclusion imposed pursuant to this Code. For violation of this Subsection, a court may impose a fine of no more than \$500 or imprisonment of no more than 30 days, or both.

B. A person who enters or remains in a prostitution-free zone in violation of an exclusion issued pursuant to this Code is subject to arrest for Criminal Trespass (ORS 164.245).

#### **14B.30.040 Issuance of Exclusion Notices.**

The Chief of Police and/or designees are the persons in charge of the public rights of way and parks in the prostitution-free zones for purposes of issuing notices of exclusion in accordance with this Chapter.

#### **14B.30.050 Procedure.**

A. If a person is arrested and either cited to appear in court for charging or lodged in jail for presentation to a magistrate for charging based upon probable cause to believe that the person has committed any of the offenses enumerated in Subsection 14B.30.030 A. within a prostitution-free zone, the Chief of Police and/or designees may exclude that person from that prostitution-free zones. Every person excluded must be provided a notice of exclusion and variances substantially similar to Exhibit C attached to Ordinance 179996. Additions to the notice of exclusion that increase the scope of the exclusion from that described in Exhibit C render the

notice and the exclusion invalid.

**B.** At the time a person is issued a notice of exclusion from a prostitution-free zone, the Chief of Police and/or designees may discuss with the excluded person whether the person has a plausible need for a variance and may issue a variance pursuant to the process described in Subsection 14B.30.060 B.

**C.** The notice of exclusion will be in writing and a copy delivered to the excluded person. The notice of exclusion must include the following:

1. A description of the area designated as a prostitution-free zone in Section 14B.30.070 from which that person is excluded;
2. Information concerning the right to appeal the exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code; and
3. Notice that conviction of the offense for which the person was arrested and excluded will result in a one-year exclusion and information concerning the right to appeal a conviction-based exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code.

#### **14B.30.060 Appeal, Review and Variances.**

**A.** A 90 day exclusion will take effect at 12:01 a.m. on the 22<sup>nd</sup> calendar day following issuance of the notice of exclusion if the person issued the notice of exclusion has not filed an appeal as provided in this Chapter and a Code Hearings Officer has reviewed a police report documenting the exclusion notice and has found that the report presents credible evidence that supports probable cause to believe the person:

1. Committed any of the offenses enumerated in Subsection 14B.30.030 A., and
2. Received the notice required by Subsection 14B.30.050 A.

**B.** If a person issued a notice of exclusion files an appeal as provided in this chapter, imposition of a 90 day exclusion is stayed pending a final, enforceable decision upholding the exclusion.

**C.** Appeal. A person to whom a notice of exclusion is issued will have a right to appeal as follows:

1. Appeals must be made to the Code Hearings Officer of the City. Any hearings regarding such appeals will be conducted in accordance with Chapter 22.10 of this Code;
2. Copies of documents in the City's control which are intended to be used at the hearing will be made available, upon request, to the appellant;

- 3.** An appeal of a 90 day notice of exclusion must be filed, in writing, by 5:00 p.m. of the fifteenth calendar day following issuance of the notice of exclusion;
- 4.** An appeal of a one year conviction-based exclusion must be filed, in writing, by 5:00 p.m. of the fifth business day following the date of conviction;
- 5.** An appeal of:
  - a.** a denial of a request for a variance;
  - b.** a denial of a request for an amendment to a variance; or
  - c.** a revocation or amendment of a variance must be filed, in writing, by 5:00 p.m. of the fifth business day following the action regarding the variance;
- 6.** A 90 day exclusion will not take effect during the time that an appeal of the 90 day exclusion is pending;
- 7.** A one year conviction-based exclusion will take effect at 12:01 a.m. on the calendar day following the date of conviction and, notwithstanding an appeal of the exclusion, remain in effect unless the Code Hearings Officer issues a contrary decision;
- 8.** At the hearing on an appeal of a 90 day exclusion, the City has the burden to show by a preponderance of the evidence that the appellant committed any of the offenses enumerated in Subsection 14B.30.030 A., and that the conduct supporting the exclusion occurred within a prostitution-free zone;
- 9.** At the hearing on an appeal of a one year conviction-based exclusion, the City has the burden to show by a preponderance of the evidence that the appellant was convicted of any of the offenses enumerated in Subsection 14B.30.030 A., and that the conduct supporting the conviction occurred within a prostitution-free zone;
- 10.** At the hearing on an appeal of a denial of a request for a variance as provided in Subsection 14B.30.060 C.5.a., the City has the burden to show by a preponderance of the evidence that the denial was in accordance with this Section;
- 11.** At the hearing on an appeal of a denial of a request for an amendment to a variance as provided in Subsection 14B.30.060 C.5.b., the City has the burden to show by a preponderance of the evidence that the amendment was in accordance with this Section;
- 12.** At the hearing on an appeal of a revocation or amendment of a variance as provided in Subsection 14B.30.060 C.5.c., the City has the burden to show by a preponderance of the evidence that any of the conditions enumerated in this



Section supporting revocation or amendment existed at the time of revocation or amendment;

**13.** At the hearing on an appeal of a 90 day exclusion, the following is prima facie evidence that the exclusion was based on probable cause to believe that the appellant committed any of the offenses enumerated in Subsection 14B.30.030 A.:

**a.** a determination by a court having jurisdiction over the offense that forms the basis for the exclusion, that probable cause existed to arrest the person to whom the initial 90 day notice of exclusion was issued for violation of any of the offenses enumerated in Subsection 14B.30.030 A.; or

**b.** an accusatory instrument charging the person to whom a 90 day notice of exclusion was issued, for violation of any of the offenses enumerated in Subsection 14B.30.030 A; and

**14.** At the hearing on an appeal of a one year conviction-based exclusion, a judgment of conviction for any of the offenses that formed the basis for the exclusion, as enumerated in Subsection 14B.30.030 A., is conclusive evidence that the described conduct occurred but, absent a finding of fact by the court of conviction, is not conclusive evidence that the conduct occurred in a prostitution-free zone.

**D.** Variances. Variances modify an exclusion, and will be granted, denied, amended, or revoked in accordance with the following provisions:

**1.** All variances must be in writing, state the purpose for which they are granted, and the period of time during which they are effective. A variance that does not describe its period of effectiveness is effective for the duration of the exclusion. A variance allows relief from an exclusion only for travel to and from specified locations, activities or events, and presence at specified locations, activities and events within a prostitution-free zone;

**2.** All Police Bureau Precincts must receive and process requests for Prostitution-Free Zone variances during regular business hours if they are otherwise open to the public. This capability will be maintained at the main precinct station or at a sub-station; and

**3.** The Chief of Police and/or designees may, for any reason, grant an excluded person a variance from an exclusion at any time during an exclusion period. Except as described in Subsection 14B.30.050 B., the Chief of Police and/or designees will grant an appropriate variance to an excluded person who presents a plausible need to engage in any non-criminal activity that is not associated with the behavior supporting the person's exclusion. A variance granted under this Subsection allows travel within the prostitution-free zone only in accordance with the terms specified in the variance. The Chief of Police or designees will ask a

person requesting a variance to provide and update an address through which the person can be reached for the duration of the variance in the event the City determines there is a need to amend or revoke the variance.

**E. Revocation or amendment of variances.** Variances may be revoked or amended for the following reasons and in the following manner:

1. The excluded person provided false information in order to obtain the variance;
2. There is probable cause to believe the person has committed any of the offenses enumerated in Subsection 14B.30.030 A. in the prostitution-free zone subsequent to the issuance of the variance;
3. If the circumstances giving rise to the issuance of the variance no longer support a continuation of the variance or a term thereof;
4. If the person has new circumstances that would support amending the variance; or
5. A revocation or amendment of a variance becomes effective at 5:00 p.m. of the fifth business day following mailing of notice of the action to the excluded person at the address provided pursuant to Subsection 14B.30.060 B.1. unless the excluded person appeals the determination by following the procedures in Subsection 14B.30.060 A.5.c.

### **14B.30.070 Listing of Prostitution-Free Zones.**

The following descriptions comprises the boundaries of the prostitution-free zones listed, and the prostitution-free zones will include the entire area on and within the listed boundaries.

**A. West Prostitution-Free Zone:** Beginning at a point on the northeast corner of NW 14th Ave as it intersects with NW Johnson St; thence westerly along the north curb line of NW Johnson until it intersects with the west curb line of NW 23rd Ave; thence southerly along the west curb line of NW 23rd Ave as it crosses W Burnside St and becomes SW Vista Ave; thence southerly in a straight line to a point that is 500 feet from the intersection of the south curb line of W Burnside St and the west curb line of SW Vista Ave; thence easterly following a line that is at all times parallel to and 500 feet from the south curb line of W Burnside St until it intersects with the east curb line of NW 14th Ave; thence northerly along the east curb line of NW 14th Ave continuing along to the point of the beginning.

**B. East Prostitution-Free Zone:** Beginning at a point at the intersection of the west curb line of NE 82nd and the north curb line of NE Skidmore; thence westerly along the north curb line of NE Skidmore to a point 1,000 feet from the point of beginning; thence southerly following a line that is at all times parallel to and 1,000 feet from the west curb line of NE 82nd Ave as it crosses E Burnside Str and becomes SE 82nd Ave; thence southerly following a line that is at all times parallel to and 1,000 feet

from the west curb line of SE 82nd Ave to a point that is 1,000 feet to the west of the southwest corner of SE Crystal Springs Blvd; thence easterly along the south curb line of SE Crystal Springs Blvd to a point that is 1,000 feet to the east of the southeast corner of SE Crystal Springs Blvd; thence northerly following a line that is at all times parallel to and 1,000 feet from the east curb line of SE 82nd Ave as it crosses E Burnside St and becomes NE 82nd Ave; thence northerly following a line that is at all times parallel to and 1,000 feet from the east curb line of NE 82nd Ave to a point that is 500 feet to the south of the south curb line of NE Sandy Blvd; thence easterly following a line that is at all times parallel to and 500 feet from the south curb line of NE Sandy Blvd until it intersects with the west curb line of NE 92nd Ave; thence northerly along the west curb line of NE 92nd Ave until it intersects with the north curb line of NE Sandy Blvd; thence easterly along the north curb line of NE Sandy Blvd to a point that is 200 feet to the east of the centerline of NE 92nd Ave; thence southerly along a line that is at all times parallel to and 200 feet to the east from the centerline of NE 92nd Ave to a point that is 500 feet from the south curb line of NE Sandy Blvd; thence easterly following a line that is at all times parallel to and 500 feet from the south curb line of NE Sandy Blvd to the east curb line of NE 122nd Ave; thence northerly along the east curb line of NE 122nd Ave to a point 500 feet north of the north curb line of NE Sandy Blvd; thence westerly following a line that is at all times parallel to and 500 feet from the north curb line of NE Sandy Blvd until it intersects with the west curb line of NE 82nd; thence southerly along the west curb line of NE 82nd to the point of beginning.

## **Chapter 14B.40 Impoundment and Investigation for DUII**

### **14B.40.010 Impoundment.**

A vehicle used by a person arrested in Portland for the offense of Driving Under the Influence of Intoxicants may be seized and impounded. The period of impoundment must be sufficient to give the Portland Police Bureau a reasonable period of time to determine whether the person arrested has been previously convicted of or forfeited bail or security for Driving Under the Influence of Intoxicants in violation of the laws of Oregon or of any other jurisdiction, or has been previously convicted of or forfeited bail or security for murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle in Oregon or another jurisdiction. The vehicles of persons with such a criminal record are subject to forfeiture under state law.

### **14B.40.020 Investigation.**

The Portland Police Bureau is authorized to initiate an investigation in pertinent state and national records databases for information relevant to making the determination described in Section 14B.40.010 and to compile that information in a readily accessible database.

### **14B.40.030 Administration and Fees.**

The Portland Police Bureau is authorized to develop implementing procedures under this Chapter and to develop a fee structure which ensures that to the extent possible, the Bureau's costs and expenses in undertaking impoundment and investigation are paid by the person arrested for DUI, or other person or entity seeking to recover the vehicle.

## **Chapter 14B.50 Forfeiture**

### **14B.50.010 Certain Vehicles as Nuisances.**

The following motor vehicles are hereby declared to be nuisances and subject to seizure and in rem civil forfeiture:

- A.** A motor vehicle operated by a person whose operator's license is criminally suspended or revoked under ORS 811.182;
- B.** A motor vehicle used to commit Driving Under the Influence of Intoxicants in violation of ORS 813.010, to the extent forfeiture of such vehicle is permitted under state law;
- C.** A motor vehicle used to commit prostitution as defined in ORS 167.007; or
- D.** A motor vehicle used to commit Fleeing or Attempting to Elude Police under ORS 811.540.

### **14B.50.020 Forfeiture Proceedings.**

All civil forfeitures conducted pursuant to this Chapter are subject to the procedures and limitations set forth in ORS Chapter 131A except that the distribution of proceeds in ORS 131A.360 is not applicable.

### **14B.50.030 Prostitution.**

Conduct involving violation including, solicitation to violate, attempt to violate or conspiracy to violate any provision of ORS 167.007 to 167.027, excluding 167.007 is hereby declared to be prohibited conduct, and any property that is used to commit or which is proceeds of the prohibited conduct is hereby declared to be subject to forfeiture, as limited by the provisions of Section 14B.50.020.

### **14B.50.035 Disbursement of Proceeds from Prostitution Forfeiture.**

- A.** Forfeiture proceeds arising out of the prohibited conduct as defined by Section 14B.50.030 must be separately accounted for.
- B.** After entry of a judgment of forfeiture for any assets forfeited under Section 14B.50.030, the forfeiting agency must distribute or apply the proceeds in the following order:

1. To the satisfaction of any foreclosed liens, security interests, and contracts, in order of their priority;

2. To the seizing and forfeiting agencies for actual and reasonable expenses related to the costs of the forfeiture proceeding, including but not limited to:

a. the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, such as costs, disbursements and attorney fees as defined in ORCP 68 A;

b. special expenses such as the provision of currency for undercover law enforcement operations, the cost of disabling a hidden compartment in a motor vehicle, and storage or maintenance of the seized property; and

c. expenses arising in connection with the sale of any forfeited property;

3. The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of a seizing or forfeiting agency under this Subsection.

C. After payment of costs under Subsection 14B.50.035 B., the forfeiting agency will use seventy-five percent of the remaining proceeds to provide services, including but not limited to shelter services, for victims of human trafficking. The remaining twenty-five percent of the proceeds from any assets forfeited under or Section 14B.50.030 may be used by the Portland Police Bureau for law enforcement purposes relating to the provisions of ORS 167.007, 167.012, and 167.017.

#### **14B.50.040 Gambling.**

Conduct involving violation including, solicitation to violate, attempt to violate or conspiracy to violate any provision of ORS 167.118 to 167.164 is hereby declared to be prohibited conduct, and any property that is used to commit or which is proceeds of the prohibited conduct is hereby declared to be subject to forfeiture, as limited by the provisions of Section 14B.50.020.

#### **14B.50.050 Money Laundering.**

Conduct involving a violation including, solicitation to violate, attempt to violate or conspiracy to violate any provision of ORS 164.170 and 164.172 is hereby declared to be prohibited conduct, and any property that is used to commit or which is proceeds of the prohibited conduct is hereby declared to be subject to forfeiture, as limited by the provisions of Section 14B.50.020.

#### **14B.50.055 Distribution of Proceeds from Money Laundering Forfeiture.**

A. Forfeiture proceeds arising out of the prohibited conduct as defined by Section 14B.50.050 must be separately accounted for.

**B.** After entry of a judgment of forfeiture for any assets forfeited under Section 14B.50.050, the forfeiting agency must distribute or apply the proceeds in the following order:

**1.** To the satisfaction of any foreclosed liens, security interests, and contracts, in order of their priority;

**2.** To the seizing and forfeiting agencies for actual and reasonable expenses related to the costs of the forfeiture proceeding, including but not limited to:

**a.** the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, such as costs, disbursements and attorney fees as defined in ORCP 68 A;

**b.** special expenses such as the provision of currency for undercover law enforcement operations, the cost of disabling a hidden compartment in a motor vehicle, and storage or maintenance of the seized property; and

**c.** expenses arising in connection with the sale of any forfeited property.

**C.** To the extent not addressed by a claim filed under ORS 131A.165, restitution awarded under ORS 137.105 to 137.109 and compensatory fines awarded under ORS 137.101 will be paid to any victim of the prohibited conduct or similar crime.

**D.** After payment of costs under Subsections 14B.50.055 B. and C., the forfeiting agency may use any remaining proceeds for law enforcement purposes.

#### **14B.50.060 Unlawful Operation of Private For-Hire Vehicle.**

Conduct involving violation of Portland City Code Subsection 16.40.090 A., Sections 16.40.130, 16.40.150, 16.40.190, 16.40.190, 16.40.560, 16.40.720, 16.40.730, or 16.40.740 is hereby declared to be prohibited conduct, and any property that is used to commit or which is proceeds of the prohibited conduct is hereby declared to be subject to forfeiture, as limited by the provisions of Section 14B.50.020. A motor vehicle may be seized for forfeiture under this Section if the person operating the vehicle is arrested or issued a citation for Sections 16.40.090, 16.40.130, 16.40.150, 16.40.190, 16.40.190, 16.40.560, 16.40.720, 16.40.730, or 16.40.740 and the person, within three years prior to the arrest or issuance of the citation, has twice been convicted of any of the listed offenses at either a misdemeanor or violation-level.

#### **14B.50.065 Disbursement of Proceeds from Unlawful Operation of Private For-Hire Vehicle Forfeiture.**

**A.** Forfeiture proceeds arising out of the prohibited conduct as defined by Section 14B.50.060 will be separately accounted for.

**B.** After entry of a judgment of forfeiture for any assets forfeited under Section 14B.50.060, the forfeiting agency must distribute or apply the proceeds in the

following order:

1. To the satisfaction of any foreclosed liens, security interests, and contracts, in order of their priority;
2. To the seizing and forfeiting agencies for actual and reasonable expenses related to the costs of the forfeiture proceeding, including but not limited to:
  - a. the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, such as costs, disbursements and attorney fees as defined in ORCP 68 A;
  - b. special expenses such as the provision of currency for undercover law enforcement operations, the cost of disabling a hidden compartment in a motor vehicle, and storage or maintenance of the seized property; and
  - c. expenses arising in connection with the sale of any forfeited property.

C. After payment of costs under Subsection B., the forfeiting agency may use any remaining proceeds for enforcement of the provisions of Portland City Code Chapter 16.40.

## **Chapter 14B.60 Chronic Nuisance Property**

### **14B.60.010 Definitions.**

For the purposes of this Chapter, the following definitions apply:

**A. Chronic nuisance property** means:

1. Property on which three or more nuisance activities exist or have occurred during any 30 day period;
2. Property on which or within 200 feet of which any person associated with the property has engaged in three or more nuisance activities during any 30 day period;
3. Property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, 475.005 through 475.285 and/or 475.940 through 475.995 has occurred within the previous 30 days, and the Chief of Police or a Precinct Commander has determined that the search warrant was based on evidence of continuous or repeated nuisance activities at the property; or
4. Property on which continuous or repeated nuisance activities as defined in Subsections 14B.60.010 D.7., 8., 13., and/or 14. exist or have occurred.

**B. Control** means the ability to regulate, restrain, dominate, counteract or govern Property, or conduct that occurs on a Property.

**C. Nuisance activities** means any of the following activities, behaviors or conduct:

1. Harassment as defined in ORS 166.065(1)(a)(A) and (B);
2. Bias as defined in ORS 166.155 through 166.165;
3. Disorderly conduct as defined in ORS 166.025;
4. Assault or menacing as defined in ORS 163.160 through ORS 163.190;
5. Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct as defined in ORS 163.415 through ORS 163.445;
6. Public indecency as defined in ORS 163.465;
7. Prostitution or related offenses as defined in ORS 167.007 through ORS 167.017;
8. Alcoholic liquor violations as defined in ORS 471.105 through 471.482;
9. Offensive littering as defined in ORS 164.805;
10. Criminal trespass as defined in ORS 164.243 through 164.265;
11. Theft as defined in ORS 164.015 through 164.140;
12. Arson or related offenses as defined in ORS 164.315 through 164.335;
13. Possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 475.005, 475.752 and 475.912;
14. Illegal gambling as defined in ORS 167.117, and/or ORS 167.122 through ORS 167.127;
15. Criminal mischief as defined in ORS 164.345 through 164.365;
16. Any attempt to commit (as defined in ORS 161.405), and/or conspiracy to commit (as defined in ORS 161.450), any of the above activities, behaviors or conduct;
17. Fire or discharge of a firearm as defined in Section 14A.60.020;
18. Unlawful operation of sound producing or reproducing equipment as defined in Section 14A.30.010 and/or excessive noise as defined in Portland City Code Chapters 18.04 and/or 18.14;



**19.** Unlawful drinking in public places as defined in Portland City Code 14A.50.010;

**20.** Curfew as defined in Section 14A.80.010; or

**21.** Indecent exposure as defined in Section 14A.40.030.

**D. Person** means any natural person, agent, association, firm, partnership, corporation, or other entity capable of owning, occupying, or using property in the City.

**E. Person associated with** means any person who, on the occasion of a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a property or person present on a property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, Person in Charge, or owner of a property.

**F. Person in Charge** means any person, in actual or constructive possession of a property, including but not limited to an owner or occupant of property under their ownership or control.

**G. Precinct Commander** means any Commander of the Portland Police Bureau in charge of a Precinct.

**H. Property** means any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, property may be limited to the unit or the portion of the property on which any nuisance activity has occurred or is occurring but includes areas of the property used in common by all units of property including without limitation other structures erected on the property and areas used for parking, loading and landscaping.

#### **14B.60.020 Violation.**

**A.** Any property determined by the Chief of Police or a Precinct Commander to be chronic nuisance property is in violation of this Chapter and subject to its remedies.

**B.** Any Person in Charge of property determined by the Chief of Police or a Precinct Commander to be a chronic nuisance property is in violation of this Chapter and subject to its remedies.

#### **14B.60.030 Procedure.**

**A.** When the Chief of Police or a Precinct Commander receives two or more police reports documenting the occurrence of nuisance activities on or within 200 feet of a property, the Chief of Police or Precinct Commander will independently review such

reports to determine whether they describe the activities, behaviors or conduct enumerated under Subsections 14B.60.010 D.1. through 21. Upon such a finding, the Chief of Police or a Precinct Commander may notify the Person in Charge in writing that the property is in danger of becoming chronic nuisance property. The notice must contain the following information:

- 1.** The street address or a legal description sufficient for identification of the property;
- 2.** A statement that the Chief of Police or Precinct Commander has information that the property may be chronic nuisance property, with a concise description of the nuisance activities that exist, or that have occurred. The Chief of Police or the Precinct Commander will offer the Person in Charge an opportunity to propose a course of action that the Chief of Police or the Precinct Commander agrees will abate the nuisance activities giving rise to the violation; and
- 3.** Demand that the Person in Charge respond to the Chief of Police or the Precinct Commander within 10 days to discuss the nuisance activities.

**B.** When the Chief of Police or Precinct Commander receives a police report documenting the occurrence of additional nuisance activity on or within 200 feet of a property after notification as provided by Subsection 14B.60.030 A; or, in the case of chronic nuisance property as defined in Subsections 14B.60.010 A.3. or 4., for which notice under Subsection 14B.60.030 A. is not required, the Chief of Police or the Precinct Commander must notify the Person in Charge in writing that the property has been determined to be a chronic nuisance property. The notice will contain the following information:

- 1.** The street address or a legal description sufficient for identification of the property;
- 2.** A statement that the Chief of Police or the Precinct Commander has determined the Property to be chronic nuisance property with a concise description of the nuisance activities leading to the determination;
- 3.** Demand that the Person in Charge respond within 10 days to the Chief of Police or the Precinct Commander and propose a course of action that the Chief of Police or the Precinct Commander agrees will abate the nuisance activities giving rise to the violation;
- 4.** Service must be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the Person in Charge at the address of the Property determined to be a chronic nuisance property, or such other place which is likely to give the Person in Charge notice of the determination by the Chief of Police or the Precinct Commander; and
- 5.** A copy of the notice must be served on the owner at the address shown on the tax rolls of the county in which the Property is located and/or on the occupant at

the address of the property, if these persons are different than the Person in Charge. Service will be made either personally or by first class mail, postage prepaid.

**C.** If the Person in Charge fails to respond as required by Subsection 14B.60.030 B.3., the Chief of Police or the Precinct Commander may refer the matter to the City Administrator and the City Attorney. Prior to referral, the notice required by Subsection 14B.60.030 B. must be posted at the property.

**D.** If the Person in Charge responds as required by Subsection 14B.60.030 B.3. and agrees to abate nuisance activities giving rise to the violation, the Chief of Police or the Precinct Commander may postpone referring the matter to the City Administrator and the City Attorney. If an agreed course of action does not result in the abatement of the nuisance activities within 60 days; or, if no agreement concerning abatement is reached within 60 days, the Chief of Police or the Precinct Commander may refer the matter to the City Administrator and the City Attorney.

**E.** When a Person in Charge responds to the Chief of Police or the Precinct Commander as required by Subsections 14B.60.030 A.3. or B.3. any conduct or statements made in connection with the furnishing of that response does not constitute an admission that any nuisance activities have occurred or are occurring. This Subsection does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.

**F.** The failure of any person to receive notice as provided by Subsections 14B.60.030 A. or B. will not invalidate or otherwise affect the proceedings under this Chapter.

#### **14B.60.040 Commencement of Actions; Remedies; Burden of Proof.**

**A.** The City Administrator may authorize the City Attorney to commence legal proceedings in the Circuit Court to abate chronic nuisance property and to seek closure, the imposition of civil penalties against any or all of the Persons in Charge thereof, and any other relief deemed appropriate.

**B.** If the Court determines property to be chronic nuisance property, the Court will order that the property be closed and secured against all unauthorized access, use and occupancy for a period of not less than six months, nor more than one year. The order must be entered as part of the final judgment. The Court retains jurisdiction during any period of closure.

**C.** If the Court determines a property to be chronic nuisance property, the Court may impose a civil penalty of up to \$100 per day for each day nuisance activities occurred on the property, following notice pursuant to Subsection 14B.60.030 B.; or, the cost to the City to abate the nuisance activities at the property whichever is greater. The amount of the civil penalty will be assessed against the Person in Charge and/or the property and may be included in the City's money judgment.

**D.** If satisfied of the good faith of the Person in Charge, the Court may not award civil penalties if the Court finds that the Person in Charge at all material times could not, in the exercise of reasonable care or diligence, determine that the Property had become chronic nuisance property.

**E.** In establishing the amount of any civil penalty, the Court may consider any of the following factors and must cite those found applicable:

1. The actions taken by the Person in Charge to mitigate or correct the nuisance activities at the Property;
2. The financial condition of the Person in Charge;
3. Repeated or continuous nature of the problem;
4. The magnitude or gravity of the problem;
5. The cooperation of the Person in Charge with the City;
6. The cost to the City of investigating and correcting or attempting to correct the nuisance activities; and
7. Any other factor deemed relevant by the Court.

**F.** The City has the initial burden of proof to show by a preponderance of the evidence that the property is chronic nuisance property.

**G.** Evidence of a property's general reputation and/or the reputation of persons residing in or frequenting it is admissible.

#### **14B.60.050 Summary Closure.**

Any summary closure proceeding must be based on evidence showing that nuisance activities exist or have occurred on the property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. Proceedings to obtain an order of summary closure are governed by the provisions of ORCP 79 for obtaining temporary restraining orders. In the event of summary closure, the City is not required to comply with the notification procedures set forth in Subsections 14B.60.030 A. and B.

#### **14B.60.060 Enforcement.**

**A.** The Court may authorize the City to physically secure the property against all unauthorized access, use or occupancy in the event that the Person in Charge fails to do so within the time specified by the Court. In the event that the City is authorized to secure the property, the City will recover all costs reasonably incurred by the City to physically secure the property as provided by this Section. The City Bureau(s) physically securing the property will prepare a statement of costs and the City may thereafter submit that statement to the Court for its review as provided by

ORCP 68.

**B.** The Person in Charge will pay reasonable relocation costs of a tenant if, without actual notice, the tenant moved into the property after either:

1. A Person in Charge received notice of the determination of the Chief of Police or any Precinct Commander pursuant to Subsection 14B.60.030 B.; or
2. A Person in Charge received notice of an action brought pursuant to Section 14B.60.050.

**C.** A lien will be created against the property for the amount of the City's money judgment. In addition, any person who is assessed penalties under Subsection 14B.60.040 C. and/or costs under Subsection 14B.60.060 A. is personally liable for payment thereof to the City. Judgments imposed by this Chapter will bear interest at the statutory rate.

### **14B.60.070 Attorney Fees.**

The Court may, in its discretion, award attorneys' fees to the prevailing party.

## **Chapter 14B.70 Short Term Motel Rental**

### **14B.70.010 Definitions.**

For the purposes of this Section, the following definitions apply:

**A. Person in control** means an employee or owner with the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on or at the motel, hotel, inn, or other facility designed for overnight rental.

**B. Customer** means any person who pays valuable consideration to occupy any room or rooms in a motel, hotel, inn, or other facility designed for overnight rental.

**C. Employee** means any officer, director, agent, or employee of a motel, or any independent contractor who works on or at the rental property.

**D. Fee** means the consideration charged by the operator for the occupancy of space in a motel, valued in money, goods, labor, credits, or other consideration.

**E. Motel** means any structure, or portion of any structure, which is occupied or intended or designed for dwelling, lodging, or sleeping purposes and includes but is not limited to any hotel, inn, tourist home, studio hotel, bachelor hotel, lodging house, and rooming house.

**F. Occupancy** means the use or possession, or the right to the use or possession, for lodging or sleeping purposes of any room or rooms in a motel.

**G. Operator** means the person who is the proprietor of the motel in any capacity.

**H. Owner** means any person, agent, firm, or corporation having a legal or equitable interest in a motel, and includes, but is not limited to a mortgagee in whom possession is vested all or part of the legal title to the property or all or part of the beneficial ownership and a right to present use and enjoyment of the property.

**I. Renting by the hour** means the use or possession of any room for lodging or sleeping purposes for an amount less than one-half of the minimum daily rental rate.

#### **14B.70.020 Rental of Rooms**

**A.** A motel becomes a public nuisance when any motel employee or person in control permits on three or more occasions during any 30-day period or 12 or more occasions during any 12-month period, a customer to rent a room designed for dwelling, lodging, or sleeping purposes, by the hour, or rents the same room more than twice within a 24-hour period.

**B.** Any motel which becomes a public nuisance is subject to the remedies provided for in this Chapter.

#### **14B.70.030 Procedure.**

**A.** When the City believes the motel property has become a public nuisance as defined in this Chapter, the City will attempt to notify the owner(s) of record and the person, firm, or corporation in possession of the property, in writing that the property has been determined to be a public nuisance. The notice must contain the following information:

- 1.** The street address and a legal description sufficient for identification of the property;

- 2.** A statement that the City has found the property to be a public nuisance, together with a concise description of the events or conditions leading to this finding, including the date and time of the events or conditions; and

- 3.** Demand that the owner or rightful possessor of the motel property respond within 20 days to the Chief of Police or the Precinct Commander and appeal the City's determination or propose an abatement plan that the Chief of Police or the Precinct Commander agrees will abate the nuisance activities giving rise to the violation.

**B.** The City will attempt to serve a copy of the notice personally on the owner, rightful possessor, or agent, if known, at least 10 days before the commencement of any judicial action by the City. In addition, the notice will be mailed certified mail, return receipt requested, postage prepaid, and addressed to the owner of the business at the address of the property believed to be a public nuisance and to such other address as is shown on Multnomah County tax rolls, or such other place which

is believed to give the owner of the business and of the property actual notice of the City's determination; and

**C.** The failure of any person or owner to receive actual notice of the funding of a public nuisance as defined in this Chapter does not invalidate or otherwise affect the proceedings under this Chapter.

#### **14B.70.040 Appeals Process.**

**A.** If the owner, business, agent, or rightful possessor of the property disagrees with the City's findings and determination, the owner or other rightful possessor may file an appeal with Portland Police Bureau within 20 days of the City's determination that the motel property is a public nuisance.

**B.** The request for the appeal must be in writing, and include the owner or rightful possessor's full name, street address and legal description sufficient for identification of the property determined a public nuisance, and the reason(s) for disagreement with the City's findings and determination.

**C.** Should the owner or rightful possessor of the property be dissatisfied with the outcome of the appeal, the owner or rightful possessor may issue a further appeal to the City Code Hearings Officer pursuant to Chapter 22.10 of this Code.

#### **14B.70.050 City Remedies.**

**A.** The Chief of Police or the Precinct Commander may refer the matter to the City Attorney where:

- 1.** The owner or rightful possessor fails to respond within 20 days from the determination that the motel property constitutes a public nuisance by the Chief of Police or Precinct Commander, either by appealing the City's determination or by submitting a proposed abatement plan as provided in this Chapter;
- 2.** No agreeable written abatement plan for abatement is reached within 30 days from determination of a public nuisance by the Chief of Police or the Precinct Commander;
- 3.** The owner or rightful possessor fails to execute commencement of the abatement plan within a reasonable amount of time, not to exceed 60 days of the plan's enactment; or
- 4.** The owner or rightful possessor fails to comply and maintain compliance with all conditions of the written abatement plan for one year.

**B.** Failure to respond or failure to propose an abatement plan is prima facie evidence of the owner or rightful possessor's lack of cooperation. Failure to execute or comply with any abatement plan is prima facie evidence of lack of good faith in mitigating or correcting the situation.

**C.** When the owner or rightful possessor makes a response to the Chief of Police or the Precinct Commander as required by this Chapter, any conduct or statements made in connection with the response does not constitute an admission that any nuisance activities have occurred or are occurring. This Subsection does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.

**D.** If a court determines a motel to be a public nuisance within the meaning of this Chapter, the court may order any remedy it deems appropriate to abate the nuisance, including civil penalties not to exceed \$500 for the first occasion and not to exceed \$2,500 for the second occasion, and closure of the motel for up to six months for the third occasion.

## **Chapter 14B.80 Graffiti Nuisance Property**

### **14B.80.010 Declaration of Purpose.**

**A.** It is the purpose and intent of this ordinance to provide for a procedure for removal of graffiti from buildings, walls, and other structures in order to reduce social deterioration within the City and to promote public safety and health.

**B.** The Manager may adopt procedures, forms, and written policies for administering and implementing the provisions of this Chapter.

### **14B.80.020 Graffiti Nuisance Property.**

**A.** Any property, building, or structure within the City which becomes a graffiti nuisance property is in violation of this Chapter and is subject to its remedies.

**B.** Any person who permits property under their control to become a graffiti nuisance property will be in violation of this Chapter and subject to its remedies.

### **14B.80.030 Definitions.**

For the purposes of this Chapter, the following definitions apply:

**A. Graffiti** means any unauthorized markings of paint, ink, chalk, dye or other similar substance which is visible from premises open to the public, and that have been placed upon any real or personal property such as buildings, fences, structures, or the unauthorized etching or scratching of such described surfaces where the markings are visible from premises open to the public, such as public rights of way or other publicly owned property.

**B. Manager** means the Graffiti Abatement Manager is the City official, or designated representative, who is responsible for the administration of the Graffiti Nuisance Abatement program under this Chapter. In accordance with adopted procedures, the Manager may appoint such officers, employees and agents as are authorized and



necessary to enforce the provisions of this Chapter.

**C. Graffiti nuisance property** means property upon which graffiti has been placed and such graffiti has been permitted to remain for more than 10 days after the property owner of record has been issued written notification pursuant to Subsection 14B.80.040 B.

**D. Occupant** means any person or sublessee, successor or assignee who has control over property.

**E. Owner** means any person, agent, firm or corporation having a legal or equitable interest in a property and includes but is not limited to:

1. A mortgagor in possession in whom is vested all or part of the legal title to the property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises; or
2. An occupant who has control over the property/premises.

**F. Permit** means knowingly to suffer, allow, or acquiesce by any failure, refusal or neglect to abate.

**G. Property** means any real or personal property and that which is affixed incidental or appurtenant to real property but not limited to any premises, house, building, fence, structure or any separate part thereof, whether permanent or not.

**H. Unauthorized** means without the consent of the owner or the occupant.

#### **14B.80.040 Procedures.**

**A. Required graffiti removal.** The owner or occupant of any property in the City must remove any graffiti from such property within 10 days of the graffiti's appearance.

**B. Notification.**

1. Whenever the Manager determines that graffiti exists on any structure in the City of Portland, the Manager may issue an abatement notice.
2. The Manager will cause the notice to be served upon the property owner and any occupant. The owner or occupant has 10 days after the date of service of the notice in which to remove the graffiti. The Graffiti Abatement Manager has the sole discretion to grant the property owner the option of giving the City written permission to enter on the property and remove the graffiti.
3. Service will be accomplished by addressing the notice to the owner and occupant and sending it by personal service, registered mail or certified mail. Service on the occupant may also be accomplished by posting the notice in a clearly visible location on the subject property.

**4.** If graffiti is not removed or written permission is not given to the City to remove the graffiti, the costs of removal may be assessed to the owner and will become a lien on the affected property. For each instance of graffiti abatement, the Manager will keep an accurate account of all expenses incurred, including an overhead charge of 25 percent for program administration and a civil penalty of \$250 for each abatement. In the event that the measures taken are deemed by the Code Hearings Officer to be appropriate, the cost for the same may be made as an assessment lien upon the property.

**C. Appeal.**

**1.** Within 10 days of the receipt of the notice, the property owner or occupant may appeal the notice from the Manager to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10 of this Code.

**2.** Upon receipt of the appeal request, the Code Hearings Officer must set the matter for hearing within 10 business days. If the Code Hearings Officer finds the property to be a graffiti nuisance property, and the owner or responsible party has been given notice in accordance with Subsection B. above, the Code Hearings Officer will specify when and under what conditions the graffiti must be abated.

**D. Removal of graffiti.**

**1.** The Manager may summarily abate any graffiti on any utility poles and cabinets, on exterior walls and fences immediately abutting public streets or property, or on any public property, including but not limited to traffic signs and lights.

**2.** Whenever the Manager has reasonable cause to believe that there exists upon any building or structure any graffiti requiring abatement under this Chapter, the Manager may enter upon the graffiti nuisance property at all reasonable times to perform any duty imposed on the Manager under this Chapter, and to enforce the provisions of this Chapter. Upon the failure to comply with the notice of abatement by the designated compliance date, and if the property owner or occupant has not appealed the notice as provided under Subsection C., the following steps may be taken if the graffiti nuisance property is plainly enclosed to create privacy and prevent access by unauthorized persons:

**a.** if the graffiti nuisance property is occupied, the Manager will first present proper credentials and demand entry to cause the graffiti to be abated. If entry is refused, the Manager may attempt to secure entry by any legal means; or

**b.** if the graffiti nuisance property is unoccupied, the Manager will first make a reasonable attempt to locate the owner or occupant and demand entry. Such demand may be included in the initial notice sent to the owner or occupant under Subsection B. above. If entry is refused, the Manager

may attempt to secure entry by any legal means.

**(1)** If the Manager has first obtained an administrative search warrant to secure entry onto the graffiti nuisance property to abate the graffiti, no owner or occupant may refuse, fail or neglect, after proper request, to promptly permit entry by the Manager to abate the graffiti.

**(2)** It is unlawful for any owner or occupant to refuse to permit entry by the Manager to abate graffiti under this Chapter after an administrative search warrant has been obtained. Any violation of this Subsection is punishable upon conviction by a fine of not more than \$500 and a jail sentence of up to 6 months.

**c.** If the graffiti is not removed and abated, or cause shown, as specified above, the Manager may cause the graffiti to be removed and abated upon issuance of an Administrative Search warrant.

**(1)** Graffiti abatement. If the graffiti is not removed and abated, or cause shown, as specified above, the Manager may cause the graffiti to be removed and abated.

**(2)** Warrants. The Manager may request any Circuit Court judge to issue a graffiti abatement warrant whenever entry onto private property is necessary to remove and abate any graffiti.

**(3)** Grounds for issuance of graffiti abatement warrants; affidavit.

**(a)** Affidavit. A graffiti abatement warrant will be issued only upon cause, supported by affidavit, particularly describing: the applicant's status in applying for the warrant; the ordinance or regulation requiring or authorizing the removal and abatement of the graffiti; the building or property to be entered; the basis upon which cause exists to remove or abate the graffiti, and a statement of the graffiti to be removed or abated.

**(b)** Cause. Cause will be deemed to exist if there is reasonable belief that a graffiti violation exists, as defined in this Chapter, with respect to the designated property, and that the property owner has been given notice and an opportunity to abate the graffiti and has not responded in a timely fashion.

**(4)** Procedure for issuance of a graffiti abatement warrant.

**(a)** Examination. Before issuing a graffiti abatement warrant, the judge may examine the applicant and any other witness

under oath and be satisfied of the existence of grounds for granting such application.

**(b) Issuance.** If the judge is satisfied that cause for the removal and abatement of any graffiti nuisance exists and that the other requirements for granting the application are satisfied, the judge will issue the graffiti abatement warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions abated. The warrant will contain a direction that it be executed 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 additional or other time of the day or night.

**(c) Police assistance.** In issuing a graffiti abatement warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the bureau in any way necessary to enter the property and, remove and abate the graffiti.

**(5) Execution of graffiti abatement warrants.**

**(a) Occupied property.** Except as provided in Subsection 14B.80.040 D.2., in executing a graffiti abatement warrant, the person authorized to execute the warrant will, 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. A copy of the warrant must be left with the occupant or the person in possession.

**(b) Unoccupied property.** In executing a graffiti abatement 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 14B.80.040 D.2.c.(5)(a), 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 graffiti abatement warrant must be conspicuously posted on

the property.

(c) Return. A graffiti abatement warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this Subsection, the warrant unless executed is void.

**E. Graffiti abatement consent forms.**

1. The Manager will develop consent forms allowing the Manager to enter onto property to abate the graffiti without prior notice from the Manager. The Manager will make these consent forms available to the public.
2. Property owners and occupants may request and sign consent forms for allowing graffiti abatement. The Graffiti Abatement Manager will renew the consent forms at least biannually.

**F.** To enforce any of the requirements of this Title, the Manager may gain compliance by instituting an action before the Code Hearings Officer as set out in Title 22 of City code in addition to any other available remedies.

## **Chapter 14B.85 Graffiti Materials and Sales**

### **14B.85.010 Definitions**

For the purposes of this Chapter, the following definitions apply:

**A. Manager** means the Manager is the City official, or designated representative, responsible for the administration of the Graffiti Nuisance Abatement program under Chapter 14B.80.

**B. Paint pen** means a tube, marker, or other pen-like instrument with a tip of 1/4 inch in diameter or greater that contains paint or a similar fluid and an internal paint agitator.

**C. Graffiti material** means any can of spray paint, spray paint nozzle, paint pen, glass cutting tool, or glass etching tool or instrument.

**D. Spray paint** means any aerosol container that is made or adapted for the purpose of applying paint or other substance capable of defacing property.

**E. Spray paint nozzle** means a nozzle designed to deliver a spray of paint of particular width or flow from a can of spray paint.

### **14B.85.020 Sale and Display of Graffiti Materials.**

**A.** Picture identification and tracking.

1. Any person who owns, conducts, operates, or manages a business where graffiti materials are sold must obtain current and acceptable identification when selling graffiti material to any person. The purchaser must sign a sales form that tracks the graffiti material by lot number. The seller completing the transaction must initial the sales form, confirming that the purchaser is presenting acceptable identification that belongs to and is the same person as the purchaser. The entire sales form is subject to disclosure pursuant to Oregon Public Records Law.

2. The seller must maintain a log of all sales of graffiti materials. The log will include the names of purchasers, a description of the graffiti material sold to the purchaser, the invoice or sales form number for the sale and the date of the sale. The seller must maintain the log for a period of two years from the date of the sale. Upon presentation of official identification, any representative of the Portland Police Bureau or any designated representative of the Manager may enter the business location of a business where graffiti materials are sold to ensure compliance with the provisions of this Chapter. The inspection is for the limited purpose of inspecting the business location, and the log maintained by the seller to determine compliance with the requirements of this Chapter. Any inspection under this Section is authorized to occur only during normal business hours of the business location.

3. For purposes of this Chapter, **acceptable identification** means either a valid driver's license, a State of Oregon Identification Card issued by the Department of Motor Vehicles, or a valid government-issued identification card and a second piece of identification one of which has a photograph of the purchaser. The employee completing the transaction must visually confirm that the photograph on the identification document is of the person presenting the identification and to whom the graffiti materials are being sold.

**B. Display and storage.** It is unlawful for any person who owns, conducts, operates, or manages a business where graffiti materials are sold or who sells or offers for sale any graffiti material to store or display, or cause to be stored or displayed graffiti material in an area that is accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition. This Ordinance should not be construed to preclude or prohibit the storage or display of graffiti material in an area viewable by the public so long as such items are not accessible to the public without employee assistance.

### **14B.85.030 Civil Penalties.**

**A.** The Manager may file a complaint with the Code Hearings Officer, as provided under Portland City Code Section 22.03.020, for any violation of the provisions of this Chapter, asking the Code Hearings Officer to impose civil penalties as provided in this Section. Having made a determination to ask that the Code Hearings Officer to impose civil penalties as provided by this Section, the Manager must give the person written notice of the determination by causing notice to be served upon the person at their business or residence address. Service of the notice may be

accomplished by mailing the notice by regular mail, or at the option of the Manager, by personal service in the same manner as a summons served in an action at law. Mailing of the notice by regular mail is prima facie evidence of receipt of the notice. Service of notice upon the person apparently in charge of a business during its hours of operation will constitute prima facie evidence of notice to the business owner.

**B.** The Code Hearings Officer may impose civil penalties of up to \$5,000 for any person's first violation of this Chapter. The Code Hearings Officer may impose civil penalties of up to \$15,000 for second violations of this Chapter by the same person. The Code Hearings Officer may impose civil penalties of up to \$25,000 for third or additional violations of this Chapter by the same person.

**C.** In determining the amount of the civil penalty to be imposed for violations of the provisions of this Chapter, the Code Hearings Officer will consider:

1. The extent and nature of the person's involvement in the violation;
2. The economic or financial benefit accruing or likely to accrue as a result of the violations;
3. Whether the violations were repeated or continuous, or isolated and temporary;
4. The magnitude and seriousness of the violation;
5. The City's costs of investigating the violations and correcting or attempting to correct the violation; and
6. Any other factors the Code Hearings Officer may deem to be relevant.

**D.** The Manager's decision to file a complaint under Subsection A. seeking civil penalties for any violations of this Chapter is an exclusive choice of remedies for enforcement of the requirements of this Chapter for those violations. In such cases, no criminal penalties may be imposed under Section 14B.85.040.

### **14B.85.040 Criminal Penalties.**

Except as provided in Section 14B.85.030, the intentional or knowing violation of any provision of this Chapter is punishable upon conviction by a fine of not more than \$500 or by imprisonment for not more than six months, or both.

## **Chapter 14B.90 Secondhand Dealers**

### **14B.90.010 Purpose.**

The Council's purpose in adopting this Chapter is to regulate certain business activities that present an extraordinary risk of being used by criminals to dispose of stolen

property. The Council finds that this risk is present despite the best efforts of legitimate secondhand dealer businesses because these businesses process large volumes of goods and materials that are frequently the subject of theft. This Chapter is intended to reduce this type of criminal activity by providing timely police awareness of such property transactions and by regulating the conduct of persons engaged in this business activity. The Council finds that these regulations are necessary and the need for the regulations outweighs any anti-competitive effect that may result from their adoption.

## **14B.90.020 Definitions.**

For the purposes of this Chapter, the following definitions apply unless the context requires otherwise:

**A. Acceptable identification** means either:

1. A current driver's license or a State of Oregon Identification Card issued by the Department of Motor Vehicles;
2. Two current United States, state or local government-issued identification cards, one of which has a photograph of the Seller; or
3. One of the following, when the transaction report includes the Seller's thumbprint:
  - a. a current United States, state, or local government-issued identification card which has a photograph of the Seller;
  - b. a current passport from any country; or
  - c. a current Consulate Identity Card.

**B. Acquire** means to take or transfer any interest in personal property in a voluntary transaction, including but not limited to: sales; consignments; memoranda between a dealer and a private party seller; leases; trade-ins; loans; and abandonments. Any acquisition of regulated property by a dealer will be presumed to be an acquisition on behalf of the secondhand dealer business. Notwithstanding the foregoing, **acquire** does not include:

1. Any loans made in compliance with state laws by persons licensed as Pawnbrokers by the State of Oregon; or
2. Memoranda between a dealer and a person engaged in the business of selling regulated property.

**C. Business location** means any physical location where the dealer conducts business.

**D. Chief of Police** means the Chief of the Portland Police Bureau or designee.



**E. Consulate Identity Card** means a Mexican Matricula Consular issued after 2014 or an identity card issued by a foreign consulate located in the United States with an application process and cards that meet the following criteria:

1. The applicant must be a citizen of the country served by the consulate and must apply for the card in person; and
2. In addition to fingerprints and digital photographs, the applicant must provide:
  - a. a birth certificate from the country served by the consulate; and
  - b. an official identification from that country, such as a voter identification card; and
  - c. proof of address within the issuing consulate's consular district;
3. The consulate's identification database must be linked to a national security database in the home country;
4. The issuance of the consulate identification card is supported by a centralized system to avoid duplications and confirm the authenticity of required documents and information;
5. Consulates must have access to an electronic consular identification database; and
6. The identity cards must be printed on plastic and incorporate security features including but not limited to:
  - a. Visible and invisible marks;
  - b. A background design with high quality print and micro test frames;
  - c. Text with different colors of ink;
  - d. Embedded identity data on a cryptographic chip;
  - e. A clear photograph; and
  - f. A laser engraved unique card number.

A dealer should contact the Portland Police Bureau if there are questions about whether an identity card from a country other than Mexico will serve as acceptable identification for secondhand transactions.

**F. Criminal arrests or convictions** refers to any offense defined by the statutes of the State of Oregon or ordinances of the City, unless otherwise specified. Any arrest or conviction for conduct other than that denoted by the statutes of the State of Oregon or ordinances of the City, as specified herein, will be considered to be

equivalent to one of such offenses if the elements of such offense for which the person was arrested or convicted would have constituted one of the above offenses under the applicable Oregon statutes or Portland ordinance provisions.

## **G. Dealer.**

### **1. Means any:**

**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 and that:

**b.** either:

**(1)** Acquires regulated property at or from business locations within the City of Portland, or on behalf of such a business regardless of where the acquisition occurs, or

**(2)** Offers for sale regulated property;

**2.** Dealers that acquire or offer for sale not more than 50 items of regulated property in any one-year period will be categorized as an **occasional secondhand dealer**. The term **dealer** in this Chapter and all regulations herein refer to secondhand dealers, occasional secondhand dealers and pawnbrokers unless specifically stated otherwise;

### **3. Dealer does not include:**

**a.** a business whose acquisitions of regulated property consist exclusively of donated items and/or purchases from 501(c)3 organizations;

**b.** a person whose only business transactions with regulated property in Portland consist of the sale of personal property acquired for household or other personal use; or

**c.** a person whose only business transactions with regulated property in the City consist of a display space, booth, or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any calendar year.

**H. Held property** means any regulated property that cannot be sold, dismantled or otherwise disposed of for a proscribed period of time as more specifically enumerated in Section 14B.90.090.

**I. Investment purposes** means the purchase of personal property by businesses

and the retention of that property in the same form as purchased, for resale to persons who are purchasing the property primarily as an investment.

**J. Medication** means any substance or preparation, prescription or over-the-counter, used in treating or caring for ailments and/or conditions in humans or animals.

**K. New** means anything conspicuously not Used.

**L. Pawnbroker** means any business required by ORS 726.040 to hold an Oregon Pawnbroker's license. Pawnbrokers are required by Chapter 14B.90 to have a secondhand dealer permit. As a dealer, all transactions occurring within their business (loans, buys, or consignments) are subject to all requirements within this Chapter unless otherwise stated.

**M. Person** means a natural person.

**N. Principal** means any person who will be directly engaged or employed in the management or operation of the secondhand dealer business, including any owners and any shareholders with a five percent or greater interest in the company.

**O. Receive** means to take property into the inventory, possession, or control of a dealer.

**P. Reporting system** means the computer system or database dealers are required to use to report acquisitions of regulated property to the Police Bureau.

**Q. Registered business** means an entity that is:

1. Registered with the Oregon Secretary of State Corporation Division or its equivalent in the state where the business is located; and
2. Compliant with the City Tax Division business registration requirements.

**R. Regulated property** means property of a type that has been determined by the Portland Police Bureau to be property that is frequently the subject of theft, including new items as defined in Section 14B.90.020 as well as used items such as precious metals, precious gems, watches, sterling silver, electronic equipment, photography equipment, tools, musical instruments and cases, firearms, sporting equipment, and household appliances. A list of regulated property is included in the administrative rules and may be updated at any time in order to enhance the Bureau's ability to reduce property crimes and recover stolen goods.

**S. Remanufactured** means that an item has been altered to the degree that the main components are no longer identifiable as the original item.

**T. Seller** means any person who:

1. Offers items of regulated property in exchange for money or other property; or as collateral for a loan; or

2. Donates or abandons items of regulated property.

**U. Trade show** means an event open to the public, held in a venue other than a dealer's business location, at which vendors of a specific type of merchandise may exhibit, buy, sell, or trade items that may include regulated property.

Events commonly known as flea markets or swap meets, in which goods of many types are exhibited, sold or traded, are not considered **trade shows** for the purpose of this Chapter.

**V. Transaction report** means the record of the information required by Section 14B.90.080, transmitted to the Police Bureau by the means required in the administrative rules.

**W. Used** means anything that has been put into action or service.

#### **14B.90.030 Permit Required.**

**A.** No person or business may engage in, conduct or carry on a secondhand dealer business in the City without a valid secondhand dealer permit issued by the Revenue Division.

**B.** Upon acquiring or offering for sale more than 50 items of regulated property during any one-year period, an Occasional Secondhand Dealer must apply for and obtain a secondhand dealer permit before acquiring any more items of regulated property.

**C.** Any person or business that advertises or otherwise holds themselves out to be acquiring or offering for sale regulated property within the City will be presumed to be operating as a dealer subject to the terms of Chapter 14B.90.

**D.** The sale of regulated property at events commonly known as "garage sales," "yard sales," or "estate sales," is exempt from these regulations if all of the following are present:

1. No sale exceeds a period of 72 consecutive hours; and

2. No more than four sales are held at the same location in any twelve-month period.

#### **14B.90.035 Minimum Standards.**

**A.** No person or business may operate as a dealer within the City unless the person or business maintains a fixed physical business location and is a registered business.

**B.** Dealers must comply with all applicable federal, state, and local regulations.

#### **14B.90.040 Application for Permit.**

**A.** An applicant for a secondhand dealer permit must complete and submit an application (including required personal history forms) that sets forth the following information:

- 1.** The name, address, telephone number, birth date and principal occupation of all owners and any person who will be directly engaged or employed in the management or operation of the business or the proposed business;
- 2.** The name, address and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;
- 3.** The web address of all web pages used to acquire or offer for sale regulated property on behalf of the dealer, and any and all internet auction account names used to acquire or offer for sale regulated property on behalf of the dealer.
- 4.** Written proof that all principals are at least 18 years of age;
- 5.** Each principal's business occupation or employment for the three years immediately preceding the date of application;
- 6.** The business license and permit history of the applicant in operating a business identical to or similar to those regulated by Chapter 14B.90;
- 7.** A brief summary of the applicant's business history in any jurisdiction including:
  - a.** the business license or permit history of the applicant; and
  - b.** whether the applicant or any principal has ever had any business-related license or permit revoked or suspended, the reasons therefor, and the business activity or occupation of the applicant or principal subsequent to the suspension or revocation;
- 8.** Whether the applicant will be 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, birth dates, addresses, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of each partner, whether general, limited, or silent, and the respective ownership shares owned by each;

**b.** If a corporation, or limited liability company, the application must set forth the corporate or company name, copies of the articles of incorporation or organization and the corporate by-laws or operating agreement, and the names, addresses, birth dates, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of every officer, director, members or managers, and shareholder (owning more than five percent of the outstanding shares) and the number of shares held by each;

**9.** If the applicant does not own the business premises, a true and complete copy of the executed lease (and the legal description of the premises to be permitted) must be attached to the application;

**10.** All criminal arrests or convictions of each principal enumerated in Subsections 1. through 7.;

**11.** Upon request, principals and employees will submit fingerprints and passport size photographs to the Portland Police Bureau. Principals and employees must submit new photos if requested to do so by the Portland Police Bureau; and

**12.** Any other information that the City Administrator may reasonably feel is necessary to accomplish the goals of this Chapter.

**B.** The dealer must notify the Revenue Division of any changes in the information required in Subsection A. within 10 business days.

**C.** New employees of dealers must complete and submit the personal history form as required in Subsection A. Employees may not acquire regulated property until all required information has been reviewed and approved by the Portland Police Bureau. The criteria used to review a new employee will be the same as those used in the review of an initial application in Subsection 14B.90.050 B.

**D.** The personal and business information contained in the application forms required pursuant to Subsection 14B.90.040 A. are subject to the requirements of the Oregon Public Records Law, ORS 192.311 through 192.405.

#### **14B.90.050 Issuance and Renewal of Permit.**

**A.** Upon the filing of an application for a permit and payment of the required fee, the Chief of Police will conduct an investigation of the applicant and all principals and employees listed according to the requirements in Subsection 14B.90.040 A. The City Administrator will issue the permit within 90 days of receiving the application if no cause for denial exists.

**B.** Except as provided in Subsection 14B.90.050 C. the City Administrator must deny an application for a permit if any of the following apply:

**1.** The applicant, or any person who will be directly engaged in the management

or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 14B.90; and

**a.** the license or permit for the business has been revoked for cause that would be grounds for revocation pursuant to Chapter 14B.90; or

**b.** the business has been found to constitute a public nuisance and abatement has been ordered;

**2.** Any person listed on the initial application or renewal application has been convicted of one or more of the offenses listed below or has violated any Section of Chapter 14B.90. The offenses include:

**a.** any felony; or

**b.** any misdemeanor or violation involving either bribery, controlled substances, deception, dishonesty, forgery, fraud, or theft, or any attempt or conspiracy to commit any of the listed offenses;

**3.** The City Administrator finds by a preponderance of the evidence that the applicant or any principal or employee has committed any offense relating to fraud, theft or any attempt or conspiracy to commit theft, or any offense listed in Section 14B.90.120;

**4.** The City Administrator finds by a preponderance of the evidence that the applicant or any principal or employee who will be involved in the business has violated any law where the elements of such law are equivalent to the provisions of Chapter 14B.90;

**5.** Any statement in the application is false or any required information is withheld; or

**6.** The City Administrator finds by a preponderance of the evidence that the applicant, or any person who will be directly engaged or employed in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 14B.90 or any laws or statutes equivalent to the provisions of Chapter 14B.90, and the business has violated applicable state, federal or local requirements, including permitting requirements.

**C.** Notwithstanding Subsection 14B.90.050 B., the City Administrator may grant a permit after consulting with the Chief of Police despite the presence of one or more of the enumerated factors if the applicant establishes to the City Administrator's reasonable satisfaction that:

**1.** The behavior evidenced by such factor is not likely to recur;

2. The behavior evidenced by such factor is remote in time; or
3. The behavior evidenced by such factor occurred under circumstances that diminish the seriousness of the factor as it relates to the purpose of Chapter 14B.90.

**D.** Permits are valid for a term of one year and expire on the first anniversary of their issuance. The permits are nontransferable and are valid only for a single business location. When the business location is to be changed, the permit holder will provide the address of the new location in writing to the Revenue Division for approval at least 14 days prior to the change.

**E.** Permits must be displayed at the business location in a manner readily visible to patrons.

**F.** Upon denial of an application for a permit, the City Administrator must give the applicant written notice of the denial.

1. Service of the notice will be accomplished by mailing the notice to the applicant by certified mail, return receipt requested.
2. Mailing of the notice will be prima facie evidence of receipt of the notice.
3. The denial will be effective the date the notice is sent.

**G.** Denial of a permit may be appealed by filing written notice of an appeal within 10 days of the date of denial in accordance with Section 14B.90.150.

#### **14B.90.060 Permit Fees.**

Every dealer must complete and submit all required forms to the Revenue Division and pay a nonrefundable fee as required by the administrative rules.

#### **14B.90.070 Subsequent Locations.**

**A.** Dealers must file an application for a permit for a subsequent or additional business location with the Revenue Division and pay a nonrefundable fee as set forth in the administrative rules, provided the information required for the subsequent or additional business location is identical to that provided in the application for the prior location with the exception of that required by Subsection 14B.90.040 A.2.

**B.** Permits issued for subsequent or additional business locations will be subject to all the requirements of this Chapter, and the term of the permit issued for a subsequent or additional location will expire on the same date as the initial permit.

#### **14B.90.080 Reporting of Secondhand Dealer Transactions.**

**A.** Dealers must provide to the Portland Police Bureau all required information as



described in the administrative rules for each regulated property transaction (not including sales). The Chief of Police may designate the format for the transfer of this information and may direct that it be communicated by means of mail, the internet, or other computer media as provided in the administrative rules.

1. In any such case that the Chief directs that the information be transmitted via computer media, the Chief may also direct the system that will be utilized in order to ensure conformity among all dealers.
2. If, after establishing the format and requirements for the transmission of computerized reports of transactions, the Chief of Police alters the required format, dealers will be given at least 60 days to comply with the new format requirements. If unable to implement the reporting system before the deadline, a dealer must submit a written request for additional time to the Chief of Police before the deadline.
3. Upon approval by the Chief of Police, a dealer that acquires less than 25 items of regulated property in a year may use forms provided by the Portland Police Bureau to report transactions.
4. Pawnbrokers are required to report only new transactions. Loan renewals do not need to be reported.

**B.** The Declaration of Proof of Ownership will be considered to be included in references in this Chapter to the transaction record, as appropriate.

### **14B.90.090 Regulated Property Sale Limitations.**

**A.** Regulated property is subject to the following limitations:

1. Holding period: regulated property acquired by any dealer must be held for a period of 30 full days from the date of acquisition. Pawnbroker loan transactions are exempt from the 30-day hold requirements of Section 14B.90.090 because of the redeemable nature of the loans and the holding requirements in ORS 726.010 through 726.450. However, if the loan is converted to a buy by the pawnbroker within 30 days from the date of the pawn transaction, the difference between the original date of the pawn and the buy will count toward the 30-day hold requirement. All other provisions of Section 14B.90.090 remain in effect.
2. Requirements of held property: all held property must remain in the same form as when received, must not be sold, dismantled, or otherwise disposed of, and must be kept separate and apart from all other property during the holding period to prevent theft or accidental sale and to allow for identification and examination by the Revenue Division or Police Bureau. Held property must be kept at the business location during this holding period so that it can be inspected during normal business hours (as provided in Section 14B.90.110). Held property, other than property on Police Hold, may be held in a place within public view, as long as the other requirements of the Subsection are met.

**B.** Notwithstanding Subsection 14B.90.090 A., the City Administrator may determine that certain types of transactions pose a reduced risk of being an outlet for the sale of stolen property and therefore may modify the hold period and/or reporting requirements for those types of transactions. Those transactions and the modified requirements are described in the administrative rules.

**C.** Upon reasonable belief that an item of regulated property is the subject of a crime, any peace officer may provide notice to any dealer that a specifically described item of regulated property must be held in a separate Police Hold area for a period not to exceed 30 days from the date of notification and is subject to the requirements of Subsection 14B.90.090 A.2 above. The hold may be extended an additional 30 days upon notice provided to the dealer that additional time is needed to determine whether a specific item of regulated property is the subject of a crime. The dealer must comply with the hold notice and notify the Chief of Police of the hold notice not later than five calendar days from the day the notice was received, either by telephone, fax, email, or in person. A dealer must notify the Chief of Police of their intent to dispose of any item of regulated property under Police Hold at least 10 days prior to doing so.

**1.** A Police Hold area must meet the following criteria:

- a.** located out of public view and access;
- b.** marked "Police Hold;" and
- c.** contain only items that have been put on Police Hold.

**2.** Dealers may maintain up to three Police Hold areas as necessary for the safe storage of high value items, physically large items, and general merchandise put on Police Hold.

**3.** If it is not possible or practical to move an item to or store an item in the Police Hold area, a dealer may submit a written request to the Chief of Police for approval to keep the item with other held property. Approval may be granted with the understanding that the item will be clearly marked as being on Police Hold and kept from public view and access.

**D.** Upon probable cause that an item of property is the subject of a crime, the Chief of Police may take physical custody of the item or provide written notice to any dealer to hold such property for a period of time as determined by the Chief of Police, not to exceed the statute of limitations for the crime being investigated. Any property placed on hold pursuant to this Subsection is subject to the requirements found in Subsection 14B.90.090 A.2. and will be maintained in the Police Hold area unless seized or released by the Police. Seizure of property will be carried out in accordance with Oregon Revised Statutes.

**E.** If a dealer acquires regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks which have been destroyed or are

illegible due to obvious normal use, the dealer must continue to hold the property at the business location for a period of 90 full days after acquisition. The dealer must notify the Portland Police Bureau by adding "90-day hold" to the description of the item in the transaction record, along with a notation of what kind of information has been destroyed or is illegible. The held property must conform to all the requirements found in Subsection 14B.90.090 A.2.

**F.** If a dealer receives information that leads to an objectively reasonable basis to believe that any property already at their business location has been previously lost or stolen, they must report that belief to the Portland Police Bureau by day's end. The notice must include the reporting system item number and any additional information regarding the name of the owner, if known.

**G.** If a peace officer seizes any property from a dealer; the dealer must notify the Portland Police Bureau of the seizure not later than five calendar days from the day the seizure occurs. The dealer must provide the name of the agency, the name of the peace officer, the number of the receipt left for the seizure, and the seized property information. Notification to the Police Bureau may be given by telephone, fax, email, or in person.

### **14B.90.095 Release of Held or Seized Property.**

Items held or seized under Subsection 14B.90.090 D. may not be released to anyone other than the dealer unless the property is released to:

**A.** Another law enforcement agency that has provided documentation to the satisfaction of the Chief of Police of the stolen status of the property, or

**B.** A person who reported the property as stolen; and

**1.** A stolen property report has been filed with a law enforcement agency where making an untruthful report is a violation of the law, and

**2.** A notice has been delivered to the dealer holding the property or from whom the property was seized.

**a.** The required notice will state that the property will be released to the person who has filed the stolen property report unless the dealer or pawnor/seller files a motion for return of seized property within 10 days of the date of the notice and in the manner set forth in the notice.

**b.** The notice will be sent electronically with a request for acknowledgement or delivered in person to the dealer at the email or physical address shown on the dealer's permit application or most recent permit renewal application, and to the pawnor/seller at the address shown in the transaction report required by Section 14B.90.080.

**c.** The notice will provide the information necessary to submit a motion for

return of seized property.

d. The failure of any person to receive the required notice will not invalidate or otherwise affect the proceedings of this Section.

### **14B.90.100 Tagging Regulated Property for Identification.**

Dealers must affix a tag to every item of regulated property, which must contain a unique, legible number. That unique number must either be the item number from the reporting system transaction record or be referenced to the Transaction Report required by the Portland Police Bureau. After the hold period has expired, the unique number must remain identifiable on the property until the sale of the property.

A. After the applicable hold period has expired, hand tools, or items that are sold with other like items and have no identifiable numbers or markings need not remain tagged.

B. After the applicable hold period has expired, items that are remanufactured need not remain tagged.

### **14B.90.110 Inspection of Property and Records.**

Upon presentation of official identification, a dealer must allow any representative of the Portland Police Bureau or the Revenue Division to enter the business location to ensure compliance with the provisions of Chapter 14B.90. The inspection will be for the limited purpose of inspecting the business location, regulated property, and related records as provided in this Chapter and the administrative rules. Except by mutual agreement with the dealer or by court order, any inspection under this Section will occur only during the dealer's normal business hours.

### **14B.90.120 Prohibited Acts.**

A. It is unlawful for any person regulated by Chapter 14B.90:

1. To receive any property from any person:

a. known to the principal, employee or dealer to be prohibited from selling by a court order;

b. under the age of 18 years unless the person's parent or guardian complete the applicable information on the Declaration of Proof of Ownership;

c. about whom the principal, employee or dealer has been given notice by law enforcement as having been convicted of burglary, robbery, theft or possession of or receiving stolen property within the past ten years whether the person is acting in their own behalf or as the agent of another who meets the above criteria;

**2.** To receive property prohibited by this Chapter or the administrative rules, including:

**a.** medications;

**b.** property with serial numbers, personalized inscriptions or initials or other identifying marks that appear to have been intentionally altered or rendered illegible;

**3.** To receive property that a reasonable person under similar circumstances would believe is more likely than not stolen, except as allowed by the administrative rules. A later determination regarding whether or not an item is found to be stolen will not be used as a factor to determine whether a dealer has violated this Subsection.

**B.** Any violation of Subsection 14B.90.120 A. is punishable, upon conviction, by a fine of not more than \$500 and a jail sentence of up to six months.

**C.** Notwithstanding Subsection 14B.90.120 A., a dealer may receive property for which the dealer has an objectively reasonable basis to believe is more likely than not stolen if the dealer is doing so with the intention of recovering the item for a specifically identified victim. The dealer must notify the Portland Police Bureau of the acquisition and the name of the specific person or entity believed to be the victim by the end of the business day that the acquisition is made. Notification may be made by phone or email. An item acquired under this Subsection must be immediately placed under a 30-day Police Hold.

### **14B.90.130 Penalties.**

**A.** The City Administrator may assess civil penalties in an amount up to \$500 for each violation of Chapter 14B.90.

**B.** Procedure.

**1.** The City Administrator, having made a determination to seek civil penalties as provided by this Section, will give the dealer written notice of the determination.

**2.** Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested.

**3.** Mailing of the notice will be prima facie evidence of receipt of the notice.

**4.** The civil penalty will be due ten days from the date of the notice unless such civil penalty is appealed in accordance with Section 14B.90.150.

**C.** Any principal of a dealer that has been assessed civil penalties in excess of \$2,000 in the previous 12 months who subsequently violates Chapter 14B.90 may be punished, upon conviction, by a fine of up to \$500 and a jail sentence of up to six

months.

#### **14B.90.140 Revocation or Suspension of Permit.**

**A.** Along with the other regulatory enforcement authority granted under this Chapter, the City Administrator may, after consulting with the Chief of Police, revoke or suspend any permit issued pursuant to this Chapter:

1. For any cause that would be grounds for denial of a permit;
2. Upon a finding that any violation of the provisions of this Chapter, federal, state or other local law has been committed and the violation is connected with the operation of the permitted business location so that the person in charge of the business location knew, or should reasonably have known, that violations or offenses were permitted to occur at the location by the dealer or any principal or employee engaged or employed in the management or operation of the business location;
3. A lawful inspection has been refused;
4. If payment of civil penalties has not been received by the Revenue Division within ten business days after the penalty becomes final; or
5. If any statement contained in the application for the permit is false.

**B.** The City Administrator, upon revocation or suspension of any permit issued pursuant to this Chapter, must give the dealer written notice of the revocation or suspension.

1. Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested.
2. Mailing of the notice by regular mail will be prima facie evidence of receipt of the notice.

**C.** Revocation will be effective and final 10 days after the giving of notice unless the revocation is appealed in accordance with Section 14B.90.150.

**D.** Suspension will be effective immediately upon the giving of notice, for the period of time set in the notice not to exceed 30 days.

**E.** Any principal of a dealer whose permit has been revoked who subsequently violates Chapter 14B.90 may be punished, upon conviction, by a fine of up to \$500 and a jail sentence of up to six months.

#### **14B.90.150 Appeals.**

**A.** Any dealer or person whose initial application or renewal application for a dealer

permit has been denied, or whose permit has been revoked or suspended, or who has been directed to pay a civil penalty by the City Administrator, may appeal the action of the City Administrator to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10 of the Portland City Code. Requests for appeal hearings must be filed with the Code Hearings Office or as specified by Section 22.10.030.

**B.** The filing of a notice of appeal of revocation or suspension of a permit, or of a civil penalty imposed by the City Administrator under this Chapter, will stay the effective date of the action until the Code Hearings Officer issues an opinion.

### **14B.90.170 Authority of City Administrator to Adopt Rules, Procedures and Forms.**

**A.** The City Administrator may adopt rules, procedures, and forms to implement the provisions of this Chapter.

**B.** The City Administrator may adopt administrative rules as authorized by Charter.

## **Chapter 14B.100 Liquor License Recommendations**

### **14B.100.010 Purpose.**

The purpose of this Chapter is to establish a fair, effective and efficient process which will be used by the Chief of Police in making recommendations to the Oregon Liquor & Cannabis Commission (OLCC) for liquor licenses for premises within the City limits. This Chapter is necessary to ensure that all premises licensed to sell or dispense liquor in any form meet the high expectations of this community and that all licensed premises are conducted in a lawful manner that does not unreasonably disturb the peace and tranquility of this City and its neighborhoods.

### **14B.100.020 Delegation of Application Recommendation Authority.**

In order to expedite service to license applicants and the citizens of the City, the Council, as the governing body of the City, hereby delegates to the Chief of Police its authority to make liquor license application recommendations to the OLCC. Any responsibility delegated to the Chief of Police by this Chapter may also be performed by the designee of the Chief of Police.

### **14B.100.030 Application Procedure.**

**A.** Any applicant for any license who is required by the OLCC to have a recommendation from the City of Portland concerning the suitability of the application will present the license application forms prescribed by the OLCC to the Portland Permitting & Development, or its designee, for the purpose of obtaining the recommendation of the Chief of Police concerning the license.

**B.** The Portland Permitting & Development may accept liquor license applications

only when the following conditions are met:

1. All required forms are properly completed and in order; and
2. The processing fee has been paid. Fees will be in the maximum amount allowed by Oregon law and are nonrefundable.

**C.** The Portland Permitting & Development will forward completed liquor license applications and required documentation to the Chief of Police or their designee within two business days.

**D.** Except for applications for new licensed premises for railroads, public passenger carriers or boats, health care facilities, or all OLCC wholesale type licenses, in addition to the posting of a conspicuous notice on the licensed premises as required by the OLCC, Portland Permitting & Development will:

1. Notify the public that an application has been filed by posting relevant information on the liquor program website;
2. Require the applicant to post the proposed new licensed premises with a notice indicating the process for public comment; and
3. Request a response in writing, via mail or electronic delivery, from the public and allow at least 20 days after posting of notification as provided in this Section, to provide a response in writing to Portland Permitting & Development.

**E.** The Chief of Police will conduct an investigation of each application for the purpose of determining the recommendation that will be made to the OLCC. In addition to the information required by the OLCC application forms, the Chief of Police is authorized to require from the applicant any other pertinent information that the Chief of Police deems appropriate.

**F.** The Chief of Police will coordinate with Portland Permitting & Development prior to issuance of a recommendation to determine if there is substantial community concern or opposition to the application.

1. If the Chief of Police finds that there are valid grounds to make an unfavorable recommendation to OLCC as provided by Oregon liquor laws, the Chief of Police must make an unfavorable recommendation. This recommendation will be sent to the Portland Permitting & Development and the OLCC.
2. If there is substantial community concern or opposition to the application, but the Chief of Police, because of time constraints or other factors, does not find sufficient basis for an unfavorable recommendation as provided by Oregon liquor laws, the Chief of Police will make a no endorsement recommendation with supporting documentation of community concern or opposition as provided by Portland Permitting & Development, and may request that the OLCC hear testimony from the community. This recommendation will be sent to the Portland



Permitting & Development and the OLCC. Portland Permitting & Development will coordinate community testimony for OLCC hearings.

**3.** If the Chief of Police finds no basis for an unfavorable recommendation as provided by Oregon liquor laws, and there is no substantial community concern or opposition at the licensed premises, the Chief of Police must make a favorable recommendation. This recommendation will be sent to the Portland Permitting & Development and the OLCC. The Chief of Police may also attach conditions or restrictions to a favorable recommendation, such as allowing sales only during limited hours, restricting the sale of alcoholic beverages associated with street drinkers, or other conditions or restrictions consistent with the Oregon liquor laws.

**G.** Portland Permitting & Development will notify the applicant of the recommendation.

**H.** The process for renewal applications will be as provided by this Section except that the notification requirements of Subsection D. will not apply.

**I.** If Portland Permitting & Development believes a good neighbor agreement will alleviate substantial neighborhood concern or opposition, Portland Permitting & Development will attempt to work with the licensed premises and the neighborhood to achieve a good neighbor agreement. Portland Permitting & Development will notify the Chief of Police and the OLCC of any completed good neighbor agreements, or, of its attempts to achieve a good neighbor agreement, in the event Portland Permitting & Development is unable to complete a good neighbor agreement within a reasonable period of time.

#### **14B.100.040 Reconsideration of Applications.**

Except as provided by this Section, after having made a recommendation other than favorable on any new license application, the Chief of Police will not reconsider an application for the same location by the same or substantially the same applicant for a period of at least six months, or during the period the applicant has an appeal relating to the license pending in court or in a state administrative agency, whichever is longer. However, the Chief of Police may reconsider an application in less than six months if no appeal relating to the license is pending in court or in a state administrative agency, and the Chief of Police reasonably determines that the circumstances which caused the Chief of Police to make a recommendation other than favorable have substantially changed.

#### **14B.100.060 Impact Areas.**

**A.** It is the responsibility of the Chief of Police to review, from time to time, the locations, types and quantities of liquor licenses that have been issued for premises located in geographical areas, neighborhoods or sectors of the City. If the Chief of Police, upon inquiry, or at the request of citizens or groups finds: that some area of

the City is saturated with certain types of licensed premises selling or serving alcoholic beverages and that the placement of additional licensed premises within that area will likely be deleterious to that area; or, that excessive criminal acts, traffic congestion, or litter problems are present or will increase due in part to the licensed premises; or, additional licensed premises are not justified by public interest or convenience, then the Chief of Police will make a recommendation to Council that the area be designated as an impact area, and that liquor licenses of certain types should not be granted or renewed in that area for a specific period of time, or until the number of current licenses is reduced to the point that licensed premises can be permitted that will not be deleterious to the area, or, will not lead to additional criminal acts, traffic congestion or litter problems, or, are justified by public interest or convenience.

**B.** If Council declares an area to be an impact area based upon findings that valid grounds exist as provided by Oregon liquor laws, the Chief of Police will notify OLCC so that OLCC may ensure that liquor license applicants are put on notice of the impact area.

**C.** Within any area declared to be an impact area as provided by this Chapter, the Chief of Police is authorized, on behalf of Council:

1. To present an unfavorable recommendation to the OLCC on any application for a new licensed premises located in the impact area; or
2. To present a favorable recommendation for any existing licensed premises located in the impact area, subject to certain conditions or restrictions, such as allowing liquor sales only during limited hours, restricting the sale of alcoholic beverages associated with street drinkers, or other restrictions consistent with the Oregon liquor laws.

**D.** Impact area recommendations will not apply to licensed premises wherein the sale of alcoholic beverages is incidental to full-service restaurant facilities, with meals prepared on the licensed premises, provided that the liquor license applicant(s) and the restaurant owner(s) are one and the same.

**E.** The following areas are declared by Council to be impact areas:

1. **Burnside District Impact Area.** The Burnside District, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For purposes of this Section, the Burnside District is defined as that area bounded by the Willamette River on the East and North, by NW Ninth Ave to West Burnside St, by West Burnside St to SW Fourth Ave, by SW Fourth Ave to SW Ankeny St, by SW Ankeny St to the Willamette River.
2. **Central Eastside Industrial District Impact Area.** The portion of the Central Eastside Industrial Area, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For the purposes of this Section, the Central Eastside Industrial Area is defined as

that area bounded by the Banfield Freeway to the North, by SE 12<sup>th</sup> Ave to the East, by SE Clay St to the South, and by the Willamette River on the West.

**3. Inner North/Northeast Neighborhood Impact Area.** The Inner North/ Northeast Neighborhood, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For purposes of this Section, the Inner North/Northeast Neighborhood is defined as that area bounded by NE Columbia Blvd on the North, NE Broadway Blvd on the South, and Interstate 5 on the West. The area's boundary on the East is NE 42<sup>nd</sup> Ave from NE Columbia Blvd to NE Prescott St, NE 23<sup>rd</sup> Ave from NE Prescott St to NE Mason St, NE 21<sup>st</sup> Avenue from NE Mason St to NE Fremont St and NE 7<sup>th</sup> Ave from NE Fremont St to NE Broadway Blvd.

## Chapter 14B.110 Amusement Devices, Games and Machines

### 14B.110.010 Purpose.

The purpose of this Chapter is to provide for the strict regulation of amusement devices, games and machines in order to reduce the potential for unlawful gambling, adverse neighborhood impacts, and adverse impacts on the welfare and education of children in the City, and to raise revenue.

### 14B.110.020 Definitions.

For the purposes of this Chapter, the following definitions apply unless the context requires otherwise:

**A. Amusement device** means any machine, device, or game, including foosball or table soccer games, billiards or pool tables, shuffleboard, shooting gallery devices, miniature bowling games, electronic games of skill, video games, and other similar machines, devices, or games:

1. Which are made available for display or operation; and
2. Which require the payment of money or other valuable consideration;
3. **Amusement device** does not include:
  - a. ping-pong tables, music devices, vending machines, or any rides where no element of chance, bonus, or prize is involved; or
  - b. video lottery games, game terminals and equipment operated directly by the Oregon Lottery Commission as a state agency.

**B. Amusement center** means any location where a person makes seven or more amusement devices available for operation or play at any one time, but excluding

any location that:

1. Derives at least 50 percent of its gross income from the sale of food;
2. Possesses a current, valid license authorizing the on-premises consumption of alcoholic beverages; or
3. Is operated primarily as a movie theater, bowling alley, skating rink, or other similar establishment, which displays or operates amusement devices only during the hours that such establishment makes its primary service or activity available to the public.

**C. Display or operation** means to make any amusement device available to the public for use or play, for the purposes of displaying or exercising skill or for amusement, at any public or private location.

**D. Location** means any business establishment, public or private club, association, or any other site where a person makes any amusement device available for display or operation, excepting only private residences in which such amusement devices are available only for display or operation at no cost to the player.

**E. Person** means any real person, or any partnership, association, corporation, or other form of business organization.

#### **14B.110.030 Authorization.**

**A. Enforcement.** The City Administrator is authorized to enforce all provisions of this Chapter.

**B. Procedures and forms.** The City Administrator may adopt procedures and forms to implement the provisions of this Chapter.

#### **14B.110.040 Permits Required for Certain Amusement Devices.**

**A.** It is unlawful for any person to make available for display or operation any amusement device in which the outcome does not depend in a material degree upon an element of chance, unless all required permits have been obtained, and the display or operation of the amusement device comply with all applicable provisions of this Chapter and of the statutes of the State of Oregon.

**B.** The provisions of this Section do not exempt any amusement device from any applicable provisions of the Internal Revenue Code requiring federal gaming device tax stamps, or any applicable provisions of the statutes of the State of Oregon.

#### **14B.110.050 Permits Required, Fees.**

**A.** It is unlawful for any owner of a location to display or make available for operation any amusement device described in Section 14B.110.040 without first obtaining a

valid Location Permit for the location. Location Permits will be classified as set forth in the administrative rules.

**B.** It is unlawful for any owner of an amusement center to display or make available for operation any amusement device described in Section 14B.110.040 without first obtaining a valid Amusement Center Permit. Amusement Center Permits will be classified as set forth in the administrative rules.

**C.** In lieu of all other permits required by this Chapter, any person may make any amusement device described in Section 14B.110.040 available for display or operation, for one continuous time period not exceeding 90 days in any calendar year, by obtaining a temporary location permit as set forth in the administrative rules.

**D.** All permits issued under this Chapter, except temporary location permits, are valid for the calendar year of issue, and expire on December 31 of that year. All permits must contain information regarding the permittee's identity. No permit issued under this Chapter is transferable or assignable under any circumstances.

**E.** No provision in this Chapter may be construed to permit the use of any amusement device in violation of State or federal law, or of any of the other provisions of this Code other than those specifically referred to herein.

#### **14B.110.060 Permit Application, Issuance, Denial.**

**A.** Applications for all permits required by this Chapter must be made to the Revenue Division on forms provided by the Revenue Division. The applicant will provide all the information relating to the purposes of this Chapter required on the form by the Revenue Division. Failure to provide any information requested on this form may be cause to deny the requested permit.

**B.** The City Administrator may approve issuance of permits after payment of the required fee, completion of the application form and following an investigation of the applicant. However, the City Administrator must deny a permit application if:

- 1.** The applicant has been convicted of any offense related to minors, juveniles, gambling, obscenity, controlled substances, prostitution or alcoholic beverages;
- 2.** Any person has been convicted of any offense relating to minors, juveniles gambling, obscenity, controlled substances, prostitution or alcoholic beverages occurring at the location for which the permit is to be obtained;
- 3.** Any statement in the application is found to be false;
- 4.** The applicant has been a principal owner, operator, manager or supervisor of an amusement location and the activities or patrons of such business caused a significant increase in harassing, disorderly or violent acts, criminal activity, vandalism, litter, liquor law violations, noise or traffic congestion in or around such business;

5. In the City Administrator's opinion, after investigation of the proposed location of an amusement location, the proposed site would be reasonably likely to result in an increase in those acts noted in Subsection 4.;

6. The business operation as proposed by the applicant would not comply with all applicable requirements of this Code, including, but not limited to, the Building, Health, Planning and Zoning and Fire Codes of the City;

7. The permitted amusement center would be located within 100 feet of any residential zone established by the Planning and Zoning Code or any location within 500 feet of any public or private elementary, junior high or high school or playground, this distance to be measured in a straight line without regard to intervening structures or obstacles from the nearest point of the school property or residential zone to the nearest point of the structure in which the permitted amusement devices would be operated; or

8. The proposed location of the business operation requiring a Location Permit, would be a detriment to the immediate vicinity due to congregation of pedestrian or vehicular traffic.

C. Notwithstanding Subsection B. above, the City Administrator with the concurrence of the Chief of Police may issue a conditional permit if the applicant establishes to the City Administrator's satisfaction that:

1. The behavior evidenced by such factor is not likely to recur;

2. The behavior evidenced by such factor is remote in time; or

3. The behavior evidenced by such factor occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of this Chapter.

4. Under this Subsection, the City Administrator may only issue a permit containing conditions directed at ensuring that such factor will not recur.

D. Denial of a permit may be appealed by the applicant by filing written notice of an appeal as provided in Section 14B.110.140.

#### **14B.110.070 Requirements of Permit Holders.**

A. Any person issued any permit for any amusement device must supervise the use and operation of such device to prevent its use or operation for any purpose contrary to the provisions of this Chapter or any other violation of the provisions of the City Code or applicable State statutes.

B. Displaying permits.

1. All location, amusement center, and temporary location permits issued under this Chapter will either be:

- a. securely affixed to the permitted amusement device;
    - b. displayed so as to be visible to the public at all times such device is in a location open to the public; or
    - c. visible to the public in the same room as the permitted amusement device.
  2. If affixed to the amusement device, the permit must be visible for inspection without removing any portion of the amusement device, or any other obstacle, and without physically moving the amusement device from its normal operating position.
  3. The entire face of any displayed permit must be visible. The permit must be displayed or affixed during its entire term.
- C.** Any person issued a location permit, or a permit to operate an amusement center, must operate, maintain and supervise the permitted business and its premises, including parking facilities, to prevent:
1. Violations of the provisions of the Portland City Code, state, or federal law, relating to juveniles, minors, alcoholic beverages, gambling, obscenity, controlled substances, prostitution, or crimes against persons or property as defined by the Oregon Revised Statutes, that are connected in a time and manner with the operation and proximity of such premises;
  2. Harassing or disorderly acts on, in, or around such premises; and
  3. Any significant increase in litter, noise, vehicular or pedestrian traffic congestion, or other locational problems in the area around such business.

#### **14B.110.080 Inspection of Amusement Devices, Records, and Premises.**

- A.** Any person issued permits under this Chapter, or who controls any location in which a permitted amusement device is located, must permit any Revenue Division representative or Portland Police Bureau officer upon presentation of official identification, to enter such location for the limited purposes of inspecting all records, amusement devices and premises regulated under this Chapter, to which the public has access, to ensure compliance with the provisions of this Chapter.
- B.** Inspections under this Section is authorized only during normal business hours.
- C.** Failure to permit an inspection authorized under this Section is grounds for suspension or revocation of any permit required under this Chapter.

#### **14B.110.090 Prohibited Conduct.**

- A.** It is unlawful for any person to make an amusement device available for use or

operation without first obtaining all permits required pursuant to this Chapter.

**B.** It is unlawful for any person in control of an amusement device to display an expired permit.

**C.** It is unlawful for any person to possess or control an amusement device which has any paper, sticker, tag or other device affixed, attached or placed on the device which purports to be a permit issued by the City or implies that the City has issued a permit when the paper, sticker, tag or other device was not issued by the City.

**D.** It is unlawful to knowingly or intentionally use or permit the use or operation of an amusement device for any gambling purposes, whether by operation of the amusement device or based upon results obtained through use or operation of the device.

**E.** It is unlawful for any owner to transfer ownership of any amusement location permitted under this Chapter without first removing the permit from the location.

**F.** It is unlawful for any person to sell, rent, give, loan or otherwise assign or transfer any permit issued under this Chapter.

**G.** It is unlawful for any person to operate an amusement center without having a permit issued pursuant to this Chapter.

#### **14B.110.100 Permit Suspension, Revocation.**

**A.** The City Administrator may suspend or revoke any permit issued under this Chapter upon finding reasonable grounds to believe, based upon an investigation, that:

1. Cause exists which would otherwise be grounds for the denial of such permit;
2. An intentional or knowing violation by the permittee of any provision of this Chapter has occurred; or
3. Any violation by any person of any City ordinance or state or federal statute has occurred relating to gambling while using, operating or playing any such amusement device. Persons holding permits will be considered to be responsible for any gambling activity of any employee relating to any permitted amusement device. Pursuant to this Section, permits may be suspended or revoked for any violation of law relating to gambling activity relating to permitted amusement devices or premises.

**B.** A suspension or revocation ordered by the City Administrator will not become effective until the permittee is served with written notice of the suspension or revocation, the reasons therefor, and the limited right of appeal pursuant to Section 14B.110.140, either personally or by delivery or posting of the notice at the location of the involved amusement device or business. The suspension or revocation may



be appealed by filing written notice of an appeal as provided in Section 14B.110.140.

### **14B.110.110 Violations, Sealing Prohibited Amusement Devices.**

**A.** Upon a determination that any provision of this Chapter has been violated, the City Administrator will issue a written notice of violation and assess civil penalties. The notice must state the nature of the violation, the date of the violation, and the date by which such violation must be corrected and any civil penalties which must be paid to prevent the amusement device from being sealed. The person responsible for the violations will be allowed five days in which to correct the violation.

**B.** Sealing of amusement devices.

**1.** If a violation is not corrected and civil penalties paid within the time period allowed in Subsection A. above, the City Administrator may seal the coin slot of any amusement device involved in the violation. If an amusement device is sealed, the City Administrator may remove the seal only if the person responsible for the violations has corrected the violations and paid any penalties imposed under this Chapter.

**2.** It is unlawful for any other person other than the City Administrator or their designee to remove or alter a seal. If a seal is unlawfully removed or altered, the sealed amusement device will be subject to seizure and destruction pursuant to this Section.

**3.** If within a single calendar year, a permittee has been issued a Notice of Violation, the City Administrator may seal any amusement device and impose penalties for all further violations by that permittee within that calendar year without first issuing a Notice of Violation or allowing time to correct the violations.

**C.** A sealed amusement device is subject to seizure and destruction as a public nuisance if:

**1.** The violation is not corrected and all penalties paid within five days of sealing; or

**2.** Upon the occurrence of any subsequent violations of this Section by any one owner or lessor within any calendar year.

**D.** The Portland Police Bureau will assist the Revenue Division in the seizure of the amusement device. The City Attorney is authorized to bring any suit or action for the destruction of the amusement device as a public nuisance.

**E.** The owner of any amusement device seized for destruction may, within 10 days of the permittee being served with written notice of such seizure, file a written notice of appeal as provided in Section 14B.110.140.

### **14B.110.120 Civil Penalties.**

**A.** The City Administrator may impose civil penalties for violations of the provisions of this Chapter according to the following schedule:

- 1.** Sealed amusement device removed from location: the penalty may be up to \$50 per amusement device.
- 2.** Failure to obtain proper location permit: the penalty may be up to \$50 per amusement device.
- 3.** The unlawful removal of seal from amusement device: the amusement device is subject to seizure and destruction pursuant to Section 14B.110.110.

**B.** Calculation of civil penalties.

**1.** In calculating the amount of the civil penalty to be imposed for violations of the provisions of this Chapter, the City Administrator must consider:

- a.** The extent and nature of the person's involvement in the violation;
- b.** The economic or financial benefit accruing or likely to accrue as a result of the violations;
- c.** Whether the violations were repeated or continuous, or isolated and temporary;
- d.** The magnitude and seriousness of the violation;
- e.** The City's costs of investigating the violations and correcting or attempting to correct the violation; and
- f.** Any other factor the City Administrator deems to be relevant.

**2.** The City Administrator must provide notice of the assessment of civil penalties in the Notice of Violation under Subsection 14B.110.110 A.

**C.** No person assessed a penalty under this Section will be issued a permit under this Chapter until all such penalties have been paid in full.

**D.** Civil penalties imposed pursuant to this Section will be the only penalties authorized for such violations.

**E.** Any person assessed a penalty may, within 10 days of receiving such written order, file a written notice of appeal as provided in Section 14B.110.140.

### **14B.110.130 Criminal Penalties.**

Except as provided in Section 14B.110.120, the intentional or knowing violation of any provision of this Chapter is punishable upon conviction by a fine of not more than \$500 or by imprisonment for not more than six months, or both.

### **14B.110.140 Appeals.**

**A.** The filing of a notice of appeal to the Code Hearings Officer, as set out in Chapter 22.10 of this Code, of revocation or suspension of a permit, or of any civil penalty imposed by the City Administrator under this Chapter, or of any seizure of an amusement device for destruction, stays the effective date of the action until the appeal is determined by the Code Hearings Officer.

**B.** The notice of appeal must be in writing. The notice must state the name and address of the appellant to which all required notices may be mailed. The notice must also indicate the reasons why the appealed action was wrong and what the correct determination should be.

## **Chapter 14B.120 Time, Place and Manner Regulation of Establishments that Sell and Serve Alcoholic Beverages**

### **14B.120.010 Purpose.**

The Oregon Legislature has authorized Oregon cities and counties to adopt reasonable time, place and manner regulations of the nuisance aspects of establishments serving alcoholic beverages, ORS 471.164. In adopting the provisions of this Chapter, the City Council's intent is to provide for reasonable time, place and manner regulations of the nuisance aspects of those establishments that serve alcoholic beverages where adverse effects occur with regard to the surrounding community. By requiring that the nuisance violations be brought before the Code Hearings Officer, the City Council's intent is that there will be specific findings made regarding the occurrence of adverse effects. The City Council also intends that the remedies imposed by the Code Hearings Officer under the authority of this Chapter will solely address the time, place and manner aspects of the nuisance activities. In addition, to create the most effective program, this Chapter establishes the Responsible Neighbor Program. The purpose of the Responsible Neighbor Program is to encourage the owners of establishments serving alcoholic beverages to act to ensure that the operation of their establishment does not create nuisances and thereby negatively impact neighborhood livability.

### **14B.120.020 Definitions.**

For the purposes of this Chapter, the following definitions apply unless the context requires otherwise:

**A. Alcoholic beverage** means any liquid or solid containing more than one-half of one-percent alcohol and capable of being consumed by a human being.

**B. Director** means the Director of the Portland Permitting & Development, or the Director's designee.

**C. Chief of Police** means the Chief of Police of the Portland Police Bureau.

**D. Licensee** means any person holding a license issued by the Oregon Liquor Control Commission.

**E. Establishment** means any location licensed under ORS Chapter 471 and includes all enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where patrons are permitted to be present. **Establishment** also includes areas outside of a building that the Oregon Liquor Control Commission has specifically approved for serving alcoholic beverages.

**F. Nuisance activity** means any of the following:

1. Operation of sound producing equipment, as prohibited by Section 14A.30.020.
2. Disorderly conduct as defined in ORS 166.025.
3. Offensive littering as defined in ORS 164.805.
4. Drinking on public rights of way, unless officially authorized, as prohibited by Section 14A.50.010.
5. Interference with vehicle ingress and egress as prohibited by Section 14A.50.035.
6. Alcoholic beverage violations in parks, as prohibited by Section 20.12.040, where the violation relates to a specific licensee.
7. Discharge of a firearm at the establishment, as prohibited by Section 14.A.60.020.
8. Illegal Drug activity as defined by ORS Chapter 475.752.
9. Unlawful prostitution procurement activities or loitering for the purpose of prostitution as defined in Sections 14A.40.040 or 14A.40.050 or illegal prostitution as defined in ORS 167.007.
10. Criminal homicide as defined in ORS 163.005 and 163.095 through 163.149.
11. Assault by means of a weapon or motor vehicle as defined in ORS 163.160, 163.165, 163.175, and 163.185.
12. Assault that causes serious physical injury as defined in ORS 163.165 and 163.175.
13. Recklessly endangering another person as defined in ORS 163.195.

**14.** Any felony sexual offense in the first degree as defined in ORS 163.375-163.427.

**15.** Unlawful Use of a Weapon as defined in ORS 166.220.

**G. Serve or serving** means to furnish, provide or supply alcoholic beverages to patrons or customers.

#### **14B.120.025 Authority to Adopt Rules, Procedures and Forms.**

The Director and Chief of Police are authorized to adopt rules, procedures and forms to implement the provisions of this Chapter.

#### **14B.120.030 Nuisance Activity Violations.**

It is a violation of this Chapter if:

**A.** During any continuous 60-day period, any combination of three or more nuisance activities as defined in Subsections 14B.120.020 F.1. through 9. occurs that is related to or arising out of an establishment that serves alcoholic beverages.

**B.** One or more nuisance activities as defined in Subsections 14B.120.020 F.10. through 15. occur that are related to or arising out of an establishment that serves alcoholic beverages.

#### **14B.120.040 Notice.**

**A.** The Director and the Chief of Police will appoint a Liquor License Team to review and substantiate the occurrences of nuisance activities.

**B.** If the Director or the Chief of Police determines that a nuisance activity has occurred at an establishment, the Director or the Chief of Police will send a written notice to the licensee. The notice must contain a description of the nuisance activity, the date and the time of its occurrence.

**C.** Upon determining that there is reasonable belief that a violation of this Chapter has occurred as provided under Section 14B.120.030, the Director or the Chief of Police will send written notice to the licensee. The written notice must contain at least the following information:

- 1.** The street address or legal description of the establishment, as reflected in the records of the Oregon Liquor Control Commission;
- 2.** A concise statement setting forth the date and time of nuisance activities, and the possible remedies that may be imposed under this Chapter by the Code Hearings Officer; and
- 3.** A request that the licensee provide a written response within 10 business days

either disputing the occurrence of the nuisance activities or providing specific proposals to abate the nuisance activities and preventing such nuisance activities from reoccurring.

**D.** If the licensee's response does not satisfy the Director or the Chief of Police's concerns, they may attempt to develop a nuisance abatement plan with the licensee. The Director or the Chief of Police may file a complaint with the Code Hearings Officer as provided under Section 14B.120.060 if:

1. The licensee refuses to actively and meaningfully participate in the process of developing a nuisance abatement plan; or
2. The effort by the Director or the Chief of Police to develop a nuisance abatement plan with the licensee fails.

#### **14B.120.050 Nuisance Abatement Plan.**

**A.** If the licensee responds to the Director or the Chief of Police within 10 business days of the date of the notice, with a proposed course of action for abating the nuisance activities, the Director or the Chief of Police will review the proposal. If the Director or the Chief of Police determines that the proposal will reasonably abate the nuisance activities, the Director or the Chief of Police and the licensee may enter into an enforceable agreement, subject to the approval of the City Administrator, specifying the terms and conditions of the abatement plan.

**B.** At a minimum, the agreement will identify the nature of the nuisance activities, the specific steps the licensee will undertake to abate the nuisance activity and the related resources the licensee will commit to the abatement, if applicable, and a mechanism for the Director or the Chief of Police to monitor compliance with the plan.

**C.** Any such agreement must be executed by the licensee and the City Administrator or their designee within 30 days of the date of the licensee's written response to the Director or the Chief of Police's notice. The Director or the Chief of Police may, upon request, extend this thirty-day period if it appears that the parties are working diligently to come to agreement.

#### **14B.120.055 Responsible Neighbor Program.**

Qualified licensees may request to participate in a Responsible Neighbor Program as administered by the Director.

**A.** The Director will approve a licensee for participation in the Responsible Neighbor Program, if the licensee meets all of the following qualifications:

1. The licensee is licensed solely for off premises sales; and
2. The licensee is currently certified for participation in the Responsible Vendor

Program provided in ORS 471.344.

**B.** If any licensee participating in the Responsible Neighbor Program has 3 nuisance activities in violation of Section 14B.120.030, or fails to comply with any of the qualifications under Subsection 14B.120.030 A., the Director will issue a written notice to the licensee and initiate a proceeding before the Code Hearings Officer as set out in Chapter 22.03 of the City Code for suspension of the licensee from participation in the Responsible Neighbor Program for a period of one year.

**C.** If a licensee is removed from the Responsible Neighbor Program, any subsequent nuisance activity violations under Section 14B.120.030, the Director or the Chief of Police will follow the processes and remedies as provided in Sections 14B.120.040 through 14B.120.080

### **14B.120.060 Enforcement.**

Upon making a determination that a violation of this Chapter has occurred as provided under Section 14B.120.030, the Director or the Chief of Police may file a complaint before the Code Hearings Officer to initiate a code enforcement proceeding only if any of the following have first occurred:

**A.** The licensee has failed to submit a timely written response to the Director or the Chief of Police's notice;

**B.** The licensee fails to propose or enter into an abatement plan that is acceptable to the Director or the Chief of Police;

**C.** The licensee does not operate the establishment in compliance with the written abatement plan; or

**D.** The licensee has been found to be in violation of this Chapter within the preceding 12 months.

### **14B.120.070 Hearings.**

The initiation and procedures of any code enforcement proceeding to determine whether nuisance activities have occurred as provided in Section 14B.120.030 and to impose remedies under Section 14B.120.080 will follow the provisions of Chapter 22.03 of the City Code.

### **14B.120.080 Remedies.**

If the Code Hearings Officer determines that a violation has occurred, as provided in Section 14B.120.030, the Code Hearings Officer must make findings regarding the occurrence of the nuisance activities and any related adverse effects. Time, place and manner abatement remedies imposed by the Code Hearings Officer to address the occurrence of the nuisance activities may include any of the following:

- A.** Limiting the hours or days during which the establishment may operate;
- B.** Requiring the establishment to provide resources to monitor, control and respond to patron behavior at and around the establishment, including but not limited to, hiring adequate security personnel to patrol the establishment;
- C.** Restricting the activities at the establishment to prevent the reoccurrence of nuisance activities, including but not limited to restrictions upon the time and manner in which entertainment is offered; or
- D.** Ordering the licensee to undertake other actions reasonably necessary to abate the nuisance activities or mitigate the effects thereof, including but not limited to, modifying the establishment to include noise insulation to prevent and abate nuisance activities related to noise.

## **Chapter 14B.130 Marijuana Regulatory License Procedure and Requirements**

### **14B.130.010 Purpose.**

The purpose of this Chapter is to protect and preserve the public health, safety, and general welfare of Portland communities by setting requirements for the licensing and siting of businesses that produce, process, sell or transfer marijuana and marijuana items. The standards and procedures exercise the City's authority in accordance with applicable Oregon statutes and administrative rules. This Chapter is adopted pursuant to authority under Oregon statutes, as well as in exercise of the City Charter home rule authority, to regulate business operations in producing, processing, selling or transferring marijuana and marijuana items within the City. Nothing in this Chapter is intended to promote or condone the sale, transfer, distribution, possession or use of marijuana in violation of applicable laws.

### **14B.130.020 Definitions.**

As used in this Chapter, unless the context requires otherwise, the following definitions apply:

**A. Applicant** means any individual that is directly involved in the management and operation of, or has at least 10 percent ownership interest in, the marijuana business or medical dispensary in the City.

**B. Cannabinoid concentrates** means a substance obtained by separating cannabinoids from marijuana by:

1. A mechanical extraction process;
2. A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol



or ethanol;

3. A chemical extraction process using the solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or

4. Any other process identified by the Oregon Liquor Control Commission or the Oregon Health Authority, by rule.

**C. Cannabinoid edibles** means food or potable liquids into which a cannabinoid concentrate, extract, or dried marijuana leaves or flowers have been incorporated.

**D. Cannabinoid extracts** means a substance obtained by separating cannabinoids from marijuana by:

1. A chemical extraction process using hydrocarbon-based solvent, such as butane, hexane, or propane;

2. A chemical extraction process using the solvent carbon dioxide, if the process uses high heat or pressure; or

3. Any other process identified by the Oregon Liquor Control Commission or the Oregon Health Authority, by rule.

**E. Cannabinoid product** means an edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contain cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include:

1. Usable marijuana by itself;

2. A concentrate by itself;

3. A cannabinoid extract by itself; or

4. Industrial Hemp, as defined in ORS 571.269.

**F. Consumer** means a person who purchases, acquires, owns, holds, or uses marijuana seeds, immature marijuana plants, marijuana or marijuana items other than for the purpose of resale.

**G. Director** means the Director of the Portland Permitting & Development, or the Director's designee.

**H. Financial consideration or for consideration** means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions, or donations.

**I. License fee reduction applicant** means a marijuana business that qualifies for marijuana regulatory license fee credit pursuant to this Chapter's License Fee

Reduction Program.

**J. Licensee** means a person who holds a license issued under Chapter 14B.130.

**K. Licensee representative** means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.

**L. Licensed premises** means all public and private enclosed areas at the location that are used for the business operated at the location, including offices, kitchens, rest rooms and storerooms; all areas outside a building that the City has specifically licensed for the production, processing, wholesale sale, retail sale or transfer of marijuana and marijuana items.

**M. Marijuana** means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. **Marijuana** does not include industrial hemp, as defined in ORS 571.269.

**N. Marijuana business** means any business located within the City that is licensed or has submitted or is required to submit an application to be licensed by the Oregon Liquor Control Commission as any of the following:

**1. Marijuana micro-producer tier I** means a person who produces marijuana in the City with an indoor canopy size of up to 625 square feet in the City;

**2. Marijuana micro-producer tier II** means a person who produces marijuana in the City with an indoor canopy size 626 to 1250 square feet in the City;

**3. Marijuana micro-wholesaler** means a person that only purchases or receives seeds, immature plants or usable marijuana from a producer with a micro tier I or tier II canopy for resale to a person other than a consumer in the City;

**4. Marijuana processor** means a person who processes marijuana items in this City:

**a.** a marijuana processor may only process and sell cannabinoid products, concentrates, or extracts if the processor has received an endorsement from the Director for that type of processing activity. Endorsement types are:

**(1)** cannabinoid edible processor;

**(2)** cannabinoid topical processor;

**(3)** cannabinoid concentrate processor;

**(4)** cannabinoid extract processor; and

(5) micro-tier processor;

b. An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time after being licensed by the Director;

c. In order to apply for a processing endorsement an applicant or licensee must submit a form prescribed by the Director that includes a description of the type of products to be processed, a description of equipment to be used, and any solvents, gases, chemicals or other compounds proposed to be used to create extracts or concentrates;

**5. Marijuana producer** means a person who produces marijuana in the City;

**6. Marijuana retailer** means a person who sells or makes available for purchase marijuana or marijuana items in the City;

**7. Marijuana retail courier** means a marijuana retailer who sells or makes available for purchase marijuana or marijuana items only by delivery to residences located within the City; and

**8. Marijuana wholesaler** means a person who purchases marijuana or marijuana items in this State for resale to a person other than a consumer.

**O. Marijuana items** means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

**P. Marijuana laboratory** means any person who is conducting tests of marijuana under Oregon law.

**Q. Marijuana regulatory license** means a license issued by the City to produce, process, sell or transfer marijuana and marijuana items.

**R. Medical dispensary** means a business located within the City that is registered with the Oregon Health Authority under ORS 475C.833 and authorized to transfer usable marijuana, marijuana items and immature marijuana plants, or a site for which an applicant has submitted an application for registration under ORS 475C.833.

**S. Micro-tier processor** means a Marijuana Micro-Producer Tier I or Marijuana Micro-Producer Tier II holding an active producer micro-tier processing endorsement issued by the Oregon Liquor Control Commission.

**T. Primary contact** means the person designated in the application who has authority to conduct business with the City on behalf of the applicant or licensee.

**U. Processor** means the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

**V. Produces** means the planting, cultivation, or growing of marijuana.

**W. Research certificate holder** means any person authorized under Oregon law to receive marijuana items for the purpose of medical or public health and safety research.

**X. Sale or sales** means any transfer, exchange or barter, in any manner or by any means, for consideration, and includes all sales made by any person including gifts for the purposes of advertising by marijuana businesses.

#### **14B.130.030 License Required.**

**A.** No person may establish, conduct, maintain or operate a medical dispensary or marijuana business in the City without a valid marijuana regulatory license issued by the Portland Permitting & Development.

**B.** Any person that advertises or otherwise holds themselves to be producing, processing or offering marijuana or marijuana items for sale or financial consideration within the City will be presumed to be a medical dispensary or marijuana business subject to the terms of Chapter 14B.130.

**C.** No medical dispensary or marijuana business may lawfully exist in the City absent the issuance of a state license and full regulatory oversight of the marijuana establishment by the State as well as the City. Compliance with the requirements of this Chapter does not provide a defense to criminal prosecution under otherwise applicable law.

#### **14B.130.040 Minimum Standards.**

**A.** A marijuana regulatory license may only be issued for a specific, fixed location which will be considered the licensed premises. The licensed premises must be within a building or structure subject to a building or zoning permit.

**B.** If the location is a medical dispensary, the location may be no closer than 1,000 feet of another medical dispensary. The distance between the dispensaries will be computed by direct measurement of the nearest portion of the building in which one medical dispensary is located to the nearest portion of the building in which the other medical dispensary is located.

**C.** Except for marijuana retail couriers, if the location is a marijuana retailer, the location may be no closer than 1,000 feet of another marijuana retailer. The distance between the retailers will be computed by direct measurement of the nearest portion of the building in which one marijuana retailer is located to the nearest portion of the building in which the other marijuana retailer is located.

**D.** Distance restrictions for dispensaries and retailers.

**1.** Except for marijuana retail couriers, a marijuana regulatory license will not be

granted for a medical dispensary or a marijuana retailer that is within 1,000 feet of another medical dispensary or another marijuana retailer. The distance between the dispensaries and retailers will be computed by direct measurement of the nearest portion of the building in which one medical dispensary or marijuana retailer is located to the nearest portion of the building in which the other medical dispensary or marijuana retailer is located.

**2.** The distance requirement in Subsection 14B.130.040 D.1. will not apply for applications for medical dispensary licenses received by the Director between November 1, 2015 and January 29, 2016, that meet the following criteria:

**a.** the medical dispensary has been:

**(1)** registered, operating and in good standing with the Oregon Health Authority since on or before July 1, 2015 and had a valid City of Portland Business License on or before July 1, 2015; or

**(2)** registered and in good standing with the Oregon Health Authority since on or before September 30, 2015, if the Director finds that the applicant demonstrates that they incurred significant financial obligations prior to that date, such as entering a lease, hiring employees, or obtaining fixtures and equipment, and had a valid City business license on or before September 30, 2015;

**b.** the medical dispensary has no outstanding compliance issues pending with the Oregon Health Authority;

**c.** the application for the medical dispensary has not submitted for or obtained a marijuana regulatory license for a marijuana retailer within 1,000 feet of the location to be licensed under this exception; and

**d.** the applicant meets all other requirements of this Chapter.

**3.** The requirements of Subsection D.1. do not apply to current, valid renewal applications for medical dispensary licenses issued under Subsection D.2.

**4.** The distance requirement in Subsection 14B.130.040 D. 1., will not apply for applications for marijuana retail licenses received by the Director that meet the following criteria:

**a.** the application is from an existing medical dispensary licensee operating under a current, valid medical dispensary located within the City of Portland;

**b.** the marijuana retail license application is for the same address at which the medical dispensary is currently operating;

**c.** the medical dispensary has no outstanding compliance issues pending

with the Oregon Health Authority;

**d.** upon issuance of a marijuana retail license from the State an applicant, under conditional approval for a marijuana retailer license, may operate without a Marijuana Regulatory License for a period of no longer than 5 business days to allow for the transition from the medical market to the recreational market; and

**e.** the applicant meets all other requirements of this Chapter.

**E.** No medical dispensary, marijuana retailer or marijuana retail courier may locate its licensed premises for business operations within 1,000 feet of:

**1.** any public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

**2.** a private or parochial elementary or secondary school, teaching children as described in ORS 339.030.

**3.** The distance from a school to a medical dispensary or a marijuana business retailer will be computed by direct measurement from the nearest property line of the land used for the school to the nearest portion of the building in which the medical dispensary or marijuana retail business is located.

**4.** If a school described in Subsection 14B.130.040 D. that has not previously been attended by children is established within 1,000 feet of a medical dispensary, marijuana retailer or marijuana retail courier for which a license has been issued under Chapter 14B.130, the medical dispensary, marijuana retailer or marijuana retail courier located at that premises may remain at that location unless:

**a.** The Portland Permitting & Development revokes the license of the marijuana business under Section 14B.130.110; or

**b.** A new application is required.

**F.** No medical dispensary, marijuana business, marijuana laboratory, or research certificate holder may be located in residential zones RF through RM4 and RMP or where otherwise not allowed per City Code.

**G.** A marijuana retail courier may not operate their licensed premises as being generally open to the public for business. All sales must be conducted off-site by delivery to consumers in accordance with the standards established in OAR 845-025-2880, as in effect on December 1, 2016.

**H.** A person or business operating a medical dispensary, marijuana business, marijuana laboratory, or research certificate holder must comply with all state and local regulations that apply.

**14B.130.050 Application Procedure.**

**A.** Applications for marijuana regulatory licenses will be processed in the order they are received by the Director. The application will not be considered received until all the required information and documentation has been submitted and the application fee has been paid. An applicant for a marijuana regulatory license must complete an application that includes the following information:

**1.** All completed forms fully executed and signed, including:

**a.** personal history forms, as developed by the Portland Permitting & Development, for any person with ownership greater than 10 percent or who will be directly involved in the management or operation of the proposed medical dispensary or marijuana business for review of the application under Subsection 14B.130.070 C.;

**b.** an information form, as developed by the Portland Permitting & Development that includes a description of the planned business operations and a security plan describing how the applicant intends to comply with the requirements of Section 14B.130.080; and

**c.** if the application is for a medical dispensary or marijuana retailer, a Marijuana Control Plan to address security protocols, potential nuisance activities and other public safety concerns;

**2.** A Business License Certificate of Compliance as provided in Section 7.02.300 of this Code;

**3.** Documentation of having an existing security system, security alarm permit from the Portland Police Bureau, and electrical permit or equivalent from the Portland Permitting & Development as needed for the premise;

**4.** Documentation of having an existing air filtration system or proof of application submittal for applicable permits to ensure odor impacts upon neighboring properties are minimized;

**5.** Proof of ownership or legal possession of the premises to be licensed for the term of the proposed license. If the licensed premises will be leased, the application must include, a true and complete copy of the executed lease showing the property owner has authorized the use as a medical dispensary or marijuana business;

**6.** Marijuana producers and processors must provide documentation showing that an applicable commercial building permit has been issued or obtained. Marijuana processors of cannabinoid extracts must also provide documentation showing that the applicable commercial building permit, mechanical permit(s) for extraction equipment, and tank permit(s) from the City Fire Marshal's Office have been obtained and received final inspection approval. The documentation for a

commercial building permit may include a temporary Certificate of Occupancy;

7. A nonrefundable application fee as stated in the fee schedule adopted by City Council. Fees will be updated annually or on an as needed basis and will be sufficient to cover the cost of administering this Chapter. The approved fee schedule will be available through the Portland Permitting & Development;

8. The Director may, at the Director's discretion, require additional documentation associated with the application as may be relevant to the requirements of this Chapter. To the extent any materials have been included with the applicant's state license application and forwarded to the City by the state licensing authority, the Director may rely upon the information forwarded from the state without requiring submittal of the same materials in conjunction with the marijuana regulatory license application; and

9. The licensee must notify the Portland Permitting & Development of any changes in the information required in Subsections 14B.130.050 A.1.a. through c. within 10 business days of the change. If ownership of the licensed entity changes by 51 percent or more, a new application is required.

**B.** Applications for renewal of marijuana regulatory licenses must demonstrate compliance with Subsections 14B.130.050 A.1. through 9. on a form provided by the Portland Permitting & Development and pay an annual fee as stated in the fee schedule adopted by City Council.

### **14B.130.055 License Fee Reduction Program.**

**A.** Applicants may request participation in the License Fee Reduction Program by demonstrating qualifications on a request form provided by the Portland Permitting & Development.

1. To qualify as a license fee reduction applicant, the applicant must demonstrate at least one of the following qualifying factors:

**a.** applicant provides opportunities to individuals directly impacted by criminal prosecutions during cannabis prohibition as demonstrated by:

**(1)** 25 percent or greater of ownership is represented by individuals with a federal or state conviction for a criminal offense committed prior to July 1, 2015 in which possession, delivery or manufacture of marijuana or marijuana items is an element, whether misdemeanor or felony; or

**(2)** 20 percent or greater of staff hours are represented by individuals with a federal or state conviction for a criminal offense committed prior to July 1, 2015 in which possession, delivery or manufacture of marijuana or marijuana items is an element, whether misdemeanor or felony;



**b.** applicant is a small business as demonstrated by:

(1) the business entity seeking the license and all business entities, including any parent companies, associate companies, subsidiaries or affiliates, with an ownership interest of 10 percent or greater, have a combined annual total income less than \$750,000 in the preceding calendar year; and

(2) in total, no more than two other state recreational or medical cannabis licenses are pending for or have been obtained by the business entity seeking the license and all individuals and entities with 10 percent or greater ownership interest, including any parent companies, associate companies, subsidiaries or affiliates business entity owners;

**c.** applicant is a small business, as defined by Portland City Code Subsection 14B.130.055 A.1.b., and contracts with an ancillary industry vendor(s) certified by the State of Oregon as an emerging small business, pursuant to OAR 123-200-1600, and/or as socially and economically disadvantaged, pursuant to OAR 123-200-1210;

(1) if the application is for a new license, the entity seeking the license must have paid the vendor(s) a total of at least \$30,000 during the 24 months immediately preceding license issuance, for expenses directly related to the marijuana business seeking the license; or

(2) if the application is for a renewal license, the entity seeking the license must have paid the vendor(s) a total of at least \$30,000 during the most recent licensing period, for expenses directly related to the marijuana business seeking the license; and

(3) The marijuana business, or any owners, including any parent companies, associate companies, subsidiaries or affiliates, must not have any shared ownership with the ancillary industry vendor(s) or its parent companies, associate companies, subsidiaries or affiliates.

**2.** A License fee reduction applicant that meets one of the qualifying factors will receive marijuana regulatory license fee credits as follows:

**a.** 15 percent credit from the marijuana regulatory license fee; and

**b.** if the application is for a producer or processor marijuana regulatory license, the license fee reduction applicant will receive credit in the form of a license fee credit for documented payments to Portland Permitting & Development for related Life Safety Preliminary Meetings and Early Assistance Meetings, or substantially similar assistance programs

available at Portland Permitting & Development. The license fee credit will be up to the lesser of \$750 or the total license fee.

c. Requests for credit should be directed to the Portland Permitting & Development, Property Compliance Division's Cannabis Program. All such credits will be deducted from the marijuana regulatory license fees.

3. A license fee reduction applicant that meets at least two of the qualifying factors will receive marijuana regulatory license fee credit as follows:

a. 25 percent credit from the marijuana regulatory license fee; and

b. If the application is for a producer or processor marijuana regulatory license, the license fee reduction applicant will receive credit in the form of a license fee credit for documented payments to Portland Permitting & Development for related Life Safety Preliminary Meetings and Early Assistance Meetings, or substantially similar assistance programs available at Portland Permitting & Development. The license fee credit will be up to the lesser of \$1,500 or the total license fee.

c. Requests for credit should be directed to the Portland Permitting & Development, Property Compliance Division's Cannabis Program. All such credits will be deducted from the marijuana regulatory license fees.

#### **14B.130.070 Issuance and Renewal of the License.**

A. Upon filing of an application and payment of the required application fee, the Director will ensure that the location proposed to be licensed or registered meets the minimum standards as defined in Section 14B.130.040. If the proposed location meets the minimum standards the Director will proceed with processing the application. If the location does not meet the minimum standards the Director must deny the application.

B. If the proposed location meets the minimum standards as defined in Section 14B.130.040, the Director will conduct an investigation of the application and all principals listed according to the requirements in Subsection 14B.130.050 A. If no cause exists for denial, the Director must issue the license after the following has been received:

1. Proof that a state license or registration has been issued;

2. The license fee as stated in the fee schedule adopted by City Council. Fees, including late fees, will be updated annually or on an as needed basis and will be sufficient to cover the cost of administering this Chapter. The approved fee schedule will be available through the Portland Permitting & Development.

a. Applicant may request a license fee deferred payment plan by submitting a form provided by the Portland Permitting & Development to

demonstrate financial need.

**b.** If the applicant's deferred payment plan request is approved by the Director, fees must be paid as follows:

**(1)** any marijuana micro-producer tier I, marijuana micro-producer tier II, marijuana micro-wholesaler, or marijuana courier must make an initial payment of \$250 before the Director issues the license. The licensee must pay the remaining license fee of \$750 within six months of the license effective date; or

**(2)** applicants for all other license types must make an initial payment of \$500 before the Director issues the license. The licensee must pay the remaining license fee of \$3,000 within six months of the license effective date.

**c.** For any marijuana micro-producer tier I, marijuana micro-producer tier II, marijuana micro-wholesaler, or marijuana courier, payments made up to 30 days after the six-month due date must include a late fee of \$100. Payments made after 30 days and up to 60 days after the six-month due date must include a late fee of \$200.

**d.** For all other license types, payments made up to 30 days after the six-month due date must include a late fee of \$250. Payments made after 30 days and up to 60 days after the six-month due date must include a late fee of \$500.

**e.** Failure to pay the total licensing fee, including late fees, within 60 days after the six-month due date constitutes a violation and the Director may impose civil penalties, license suspension, and/or license revocation.

**f.** Failure to pay the total licensing fee, including late fees, within 60 days after the six-month due date constitutes shown noncompliance and the Director may deny future requests for deferred payments.

**C.** Except as provided for in Subsection 14B.130.070 D., the Director will deny an initial or renewal application for a marijuana regulatory license if any of the following apply:

**1.** The applicant, or any person engaged in the direct management and operation of the medical dispensary or marijuana business, or anyone with 10 percent or more interest in the business has previously owned or operated a business regulated by Chapter 14B.130; and

**a.** the license has been revoked for cause that would be grounds for revocation pursuant to Chapter 14B.130; or

**b.** the Director has determined that the business has contributed to crime

or livability incidents in the area where the medical dispensary or marijuana business is located.

**2.** Any statement in the application is false or any required information is withheld;

**3.** If the application is for a medical dispensary, the location is not registered with the state under ORS 475C.833;

**4.** If the application is for a marijuana business, the location is not licensed with the Oregon Liquor Control Commission; or

**5.** The Director finds by preponderance of the evidence that the applicant or any person directly engaged in the management and operation of the medical dispensary or marijuana business has violated local or state law including a permitting or licensing requirement.

**D.** Notwithstanding Subsection 14B.130.070 B., the Director may grant a license despite the presence of one or more factors as outlined in Subsection 14B.130.070 C., if the applicant establishes to the Director's satisfaction that:

**1.** The behavior evidenced by such factor is not likely to reoccur;

**2.** The behavior evidenced by such factor is remote in time; or

**3.** The behavior evidenced by such factor occurred under circumstances that diminish the seriousness of the factor as it relates to this Chapter.

**E.** Marijuana regulatory licenses are valid for a term of one year and a renewal schedule will be established by rule. The license is nontransferable upon a change of ownership and valid only for a single fixed location.

**1.** When the business location is to be changed, the licensee must provide the address of the new location in writing to the Director to review for compliance with the requirements of this Chapter at least 60 days prior to the change.

**2.** A person with multiple dispensaries or business locations must apply for and obtain a license for each separate location.

**F.** Upon denial of an application for a marijuana regulatory license, the Director will give the applicant written notice of the denial in accordance with the minimum requirements of Chapter 3.130 of this Code.

**1.** Service of the notice will be by mail or electronic delivery to the address of the primary contact for the application on file with the Director. In addition, the Director may also send notices to other addresses known for the applicant or person including electronic delivery.

2. Mailing of the notice is prima facie evidence of receipt of the notice.

G. The denial will be effective the date the notice is sent.

H. Denial of a marijuana regulatory license may be appealed by filing written notice of an appeal within 10 business days of the date of denial in accordance with Section 14B.130.120.

### **14B.130.080 Requirements.**

A. A marijuana regulatory licensee must comply with the following regulations:

1. Licensee must display the marijuana regulatory license at the business location in a manner readily visible to patrons;
2. Licensee may not allow consumption of marijuana or marijuana items on the premises licensed under Chapter 14B.130, except as specifically authorized by Oregon law for employees of medical marijuana dispensaries who are valid, current registry identification cardholders;
3. Licensee must install and maintain in proper working order at the licensed premises a security system including alarms, safes, and surveillance cameras;
  - a. licensee must maintain camera surveillance data backup.
  - b. licensee must retain camera surveillance data for a minimum of 30 days; and
4. Licensee must correct any violations and comply with any stop work orders issued by any City bureau.

B. Any person with a marijuana regulatory license for a medical dispensary or marijuana retailer must comply with the following regulations:

1. Licensee must designate personnel at the entrance intended for consumers to require all persons entering the premises to produce an approved form of identification according to ORS 475C.217 in order to ensure that no one under the age of 21 is allowed on the premises as provided for under ORS 475C.833;
2. Licensee must maintain hours of operation no earlier than 7:00 a.m. and no later than 10:00 p.m.; and
3. Licensee must not make marijuana or marijuana items available for sale from a vendor cart, temporary structure, or satellite location, or through exterior openings of the licensed premises, such as drive-thru facilities or walk-up windows.

C. Any person with a marijuana regulatory license for a marijuana retailer must

comply with the following regulations:

1. Licensee may provide delivery of marijuana and marijuana items to a residence in Portland in accordance with OAR 845-025-2880, as in effect on December 1, 2016 and subject to compliance with the requirements of this Chapter; and
2. Licensee may sell marijuana items for medical purposes in accordance with OAR 845-025-2900, effective December 1, 2016.

**D.** Any person with a processor marijuana regulatory license or micro-tier processor endorsement must comply with the following requirements:

1. Licensee must not allow the licensed location to be open to the general public; and
2. Licensee must adhere to applicable state and local regulations for food production, ensuring that marijuana items made for consumption by eating or drinking are processed in a licensed facility.

**E.** Any person with a marijuana micro-producer tier I, marijuana micro-producer tier II, marijuana producer tier I or tier II, marijuana retail courier, marijuana micro-wholesaler or marijuana wholesaler marijuana regulatory license must not allow the licensed location to be open to the general public.

#### **14B.130.090 Inspection of Property and Records.**

**A.** Upon presentation of proper credentials, an applicant or licensee must allow any representative of the Portland Police Bureau or the Portland Permitting & Development to enter the business location to ensure compliance with the provisions of Chapter 14B.130. The inspection will be for the limited purpose of inspecting the property and related records as provided in this Chapter and the administrative rules. Except by mutual agreement with the applicant or licensee or by court order, any inspection under this Section may occur only during the business' normal business hours.

1. The Director will first present proper credentials and demand entry to the property. If entry is refused, the Director may attempt to secure entry by any legal means.
2. If the Director has first obtained an inspection warrant to secure entry onto the property, no owner or occupant may refuse, fail, or neglect, after proper request, to promptly permit entry by the Director to the property.

**B.** It is unlawful for any owner or occupant to refuse to permit entry by the Director to inspect the property under this Chapter after an inspection warrant has been obtained.

**C. Grounds for issuance of inspection warrants.**

**1. Affidavit.** An inspection warrant may 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 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 probable cause to believe that a condition of nonconformity with this Chapter 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 this Chapter.

**D. Procedure for issuance of inspection warrants.**

**1. Examination.** Before issuing an inspection warrant, the judge may examine under oath the applicant and any other witness and 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 will issue the warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered and the purpose of the inspection or investigation. The warrant will 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 additional or other time of the day or night.

**3. Police assistance.** In issuing an inspection warrant on unoccupied property, including inspection warrants pursuant to Section 14B.130.090, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to ensure the safety of the Director or representative of the bureau in completing the inspection.

**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, 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 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 warrant must be conspicuously posted upon the property.

**3. 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 10 business days from its date of execution. After the expiration of the time prescribed by this Subsection, the warrant unless executed is void.

#### **14B.130.100 Penalties.**

**A.** The Director may assess civil penalties in an amount up to \$5,000 for any violation of this Chapter.

**B.** Procedure.

**1.** Having made a determination that a violation of this Chapter has occurred, the Director will give written notice of a decision to assess civil penalties. The Director's written notice will be in accordance with the minimum requirements of Chapter 3.130 of the Portland City Code.

**2.** Service of the notice will be by mail or electronic delivery to the address of the primary contact for the licensee on file with the Director. In the case of a person operating without a marijuana regulatory license, service of the notice will be by mail to such address as the Director has on file for that person or is otherwise available to the Director. In addition, the Director may also send notices to other addresses known for the person including electronic delivery.

**3.** Mailing or electronic delivery of the notice will be prima facie evidence of receipt of the notice.

**4.** The civil penalty will be due 10 business days from the date of the notice unless appealed in accordance with Section 14B.130.120.

**C.** In determining the amount of the civil penalty to be imposed for violations of the provisions of this Chapter, the Director will consider:

**1.** The extent and nature of the person's involvement in the violation;

**2.** The economic or financial benefit accruing or likely to accrue as a result of the violations;



3. Whether the violations were repeated or continuous, or isolated and temporary;
4. The magnitude and seriousness of the violation;
5. The City's costs of investigating the violations and correcting or attempting to correct the violation; and
6. Any other factors the Director may deem to be relevant.

#### **14B.130.110 Revocation or Suspension of License.**

**A.** The Director may revoke or suspend any license issued pursuant to this Chapter.

1. For any cause that would be grounds for denial of a license; or
2. Upon finding that any violation of the provisions of this Chapter, state, or local law has been committed and the citation is connected with the operation of the licensed business location so that the person in charge of the business location knew, or should reasonably have known, that violations or offenses were permitted to occur at the location.
3. If payment of civil penalties has not been received within 10 business days by the Portland Permitting & Development.

**B.** The Director, upon revocation or suspension of any license issued pursuant to this Chapter, will give the licensee written notice of the revocation or suspension in accordance with the minimum requirements of Chapter 3.130 of Portland City Code.

1. Service of the notice will be by mail or electronic delivery to the address of the primary contact for the licensee on file with the Director. In addition, the Director may also send notices to other addresses known for the applicant or person including electronic delivery.
2. Mailing or electronic delivery of the notice by regular mail will be prima facie evidence of receipt of the notice.

**C.** Revocation will be effective and final 10 business days after the date of notice unless the revocation is appealed in accordance with Section 14B.130.120.

**D.** Suspension will be effective immediately upon the date of the notice, for the period of time set in the notice not to exceed 180 days.

#### **14B.130.120 Review by the Director and Appeals to the Code Hearings Officer.**

**A.** Any determination issued pursuant to Sections 14B.130.070, 14B.130.100 or 14B.130.110 believed to be made in error may be reviewed by the Director if

requested by the recipient. The request must be submitted in writing within 10 business days of the determination and must include all evidence that supports the request. Service of notice of the determination will be by mail or electronic delivery to the address for the primary contact for the application on file with the Director. The Director's determination will be served by regular mail or electronic delivery. Mailing or electronic delivery of the notice of determination will be prima facie evidence of receipt of the notice. In addition, the Director may also send notice of the determination to other addresses known for the applicant or person including electronic delivery.

**B.** The Director's determination may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of Portland City Code.

**C.** The filing of a notice of appeal of revocation or suspension of a license, or of a civil penalty imposed by the Director under this Chapter, will stay the effective date of the action until the Code Hearings Officer issues an opinion.

### **14B.130.130 Severability.**

If any Section, Subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid, void, illegal or unconstitutional, either on its face or as applied, such decision will not affect the applicability, constitutionality, legality or validity of any remaining portions of this chapter. The Council hereby declares its intention to have adopted this chapter, and each Section, Subsection, sentence, clause, and phrase of this chapter, regardless of the fact that any one or more Sections, Subsections, sentences, clauses, or phrases may be declared invalid, void, illegal or unconstitutional, and that the same would have been adopted by the Council had such invalid, void, illegal or unconstitutional Sections, Subsections, sentences, clauses, or phrases, if any, not been included in this Chapter.

## **Chapter 14C.10 Police Duties to Inventory Property**

### **14C.10.010 Purpose.**

This Chapter is meant to apply exclusively to the process for conducting an inventory of the personal property in an impounded vehicle and the personal possessions of a person in police custody and will not be interpreted to affect any other statutory or constitutional right(s) that police officers may employ to search persons or search or seize possessions for other purposes.

### **14C.10.020 Definitions.**

For the purpose of this Chapter, the following definitions apply:

**A. Valuables** means:

1. Cash money of an aggregate amount of \$50 or more; or

2. Individual items of personal property with a value of \$500 or more.

**B. Open container** means a container which is unsecured or incompletely secured in such a fashion that the container's contents are exposed to view.

**C. Closed container** means a container whose contents are not exposed to view.

**D. Police custody** means either:

1. The imposition of restraint as a result of an 'arrest' as that term is defined at ORS 133.005(1);
2. The imposition of actual or constructive restraint by a police officer pursuant to a court order;
3. The imposition of actual or constructive restraint by a police officer pursuant to ORS Chapter 430, or Chapter 419B; or
4. The imposition of actual or constructive restraint by a police officer for purposes of taking the restrained person to an approved facility for the involuntary confinement or detaining of persons pursuant to Oregon Revised Statute or this Code.

**E. Police officer** means any police officer employed or acting at the direction of or in collaboration with the Portland Police Bureau and any officer of the Port of Portland Police Department.

#### **14C.10.030 Inventories of Impounded Vehicles.**

**A.** The contents of all vehicles impounded by a police officer will be inventoried. The inventory must be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:

1. If there is reasonable suspicion to believe that the safety of either the police officer(s) or any other person is at risk, a required inventory will be done as soon as safely practical; or
2. If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done after such investigation is completed.

**B.** The purpose for the inventory of an impounded vehicle will be to:

1. Promptly identify property to establish accountability and avoid spurious claims to property;
2. Assist in the prevention of theft of property;

3. Locate toxic, flammable or explosive substances; or
4. Reduce the danger to persons and property.

**C.** Inventories of impounded vehicles will be conducted according to the following procedure:

1. An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats;
2. In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:
  - a. any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked car- top containers; and
  - b. any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks and locked car-top containers, if either the keys are available to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle;
3. Unless otherwise provided in this Chapter, closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes;
4. Upon completion of the inventory, the police officer will complete a report as directed by the Chief of such officer's department; and
5. Any valuables located during the inventory process will be listed on a property receipt. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present. The valuables will be dealt with in such manner as directed by the Chief of the police officer's department.

#### **14C.10.040 Inventories of Persons in Police Custody.**

- A.** A police officer will inventory the personal property in the possession of a person taken into police custody and such inventory will be conducted whenever:
1. Such person will be either placed in a secure police holding room or transported in the secure portion of a police vehicle; or

**2.** Custody of the person will be transferred to another law enforcement agency, correctional facility, or “treatment facility” as that phrase is used in ORS 430.399 or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon Revised Statute.

**B.** The purpose of the inventory of a person in police custody will be to:

- 1.** Promptly identify property to establish accountability and avoid spurious claims to property;
- 2.** Fulfill the requirements of ORS 133.455 to the extent that such statute may apply to certain property held by the police officer for safekeeping;
- 3.** Assist in the prevention of theft of property;
- 4.** Locate toxic, flammable or explosive substances;
- 5.** Locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; or
- 6.** Reduce the danger to persons and property.

**C.** Inventories of the personal property in the possession of such persons will be conducted according to the following procedures:

- 1.** An inventory will occur prior to placing such person into a holding room or a police vehicle, whichever occurs first. However, if reasonable suspicion to believe that the safety of either the police officer(s) or the person in custody or both are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to another law enforcement agency or facility.
- 2.** To complete the inventory of the personal property in the possession of such person, the police officer will remove all items of personal property from the clothing worn by such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.
- 3.** A closed container in the possession of such person will have its contents inventoried only when:
  - a.** The closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a custodial facility, police vehicle or secure police holding room;
  - b.** Such person requests that the closed container be with them in the secure portion of a police vehicle or a secure police holding room; or
  - c.** The closed container is designed for carrying money and/or small valuables on or about the person including, but not limited to, closed

purses, closed coin purses, closed wallets and closed fanny packs.

**D.** Valuables found during the inventory process will be noted by the police officer in a report as directed by the Chief of such officer's department.

**E.** All items of personal property neither left in the immediate possession of the person in custody nor left with the facility or agency accepting custody of the person, will be handled in the following manner:

1. A property receipt will be prepared listing the property to be retained in the possession of the respective police department and a copy of that receipt will be tendered to the person in custody when such person is released to the facility or agency accepting custody of such person; and

2. The property will be dealt with in such manner as directed by the Chief of such officer's department.

**F.** All items of personal property neither left in the immediate possession of the person in custody nor dealt with as provided in Subsection 14.10.040 E. above, will be released to the facility or agency accepting custody of the person so that they may:

1. Hold the property for safekeeping on behalf of the person in custody, and

2. Prepare and deliver a receipt, as may be required by ORS 133.455, for any valuables held on behalf of the person in custody.

## **Chapter 14C.20 Police Bureau Property/Evidence Division Duties**

### **14C.20.010 Maintenance of Property/Evidence Division.**

The Portland Police Bureau will maintain a property/evidence division which will keep the following:

**A.** Property of all persons arrested by Portland Police and incarcerated in a Multnomah County Jail, except any personal items kept at the jailer's discretion for the prisoners;

**B.** Evidence seized by officers or other persons in the process of making an arrest; and

**C.** Contraband, illegal items, or miscellaneous property which comes into possession of members of the Portland Police Bureau.

### **14C.20.020 Receipts for Property.**

Officers and other authorized persons will issue a receipt for all seized property, a duplicate copy of which will be retained by the property/evidence division custodian. The receipt and any copy thereof must bear the signature of the person depositing the property and contain a description of the property.

#### **14C.20.030 Records.**

The property/evidence division custodian will keep an accurate record of all property received by the property/evidence division and will keep current records showing the disposition of all property.

#### **14C.20.040 Evidence Property.**

**A.** All property received by the property/evidence division as evidence will be held subject to use as evidence in the appropriate court(s). Currency received by the division may be held as cash or deposited into a trust fund. Upon final disposition of the case(s) for which such property was seized as evidence, the Portland Police Bureau will make a reasonable attempt to return all lawful property still held by the property/evidence division to its legal owner or rightful possessor. The property/evidence division may return currency in the form of cash.

**B.** The Portland Police Bureau will make a reasonable attempt to give notice to the legal owner or rightful possessor that the property will be released to him or her. The notice must state that the legal owner or rightful possessor has 60 days within which to claim the property at the Portland Police Bureau. All property received from the property/evidence division requires the signature of the legal owner or rightful possessor.

**C.** Upon attempted notice, if property is not claimed within 60 days, the property may be disposed of by the Portland Police Bureau in the manner provided by law. Payment on disputed claims will be authorized either by an appropriate court order approved by the City Attorney or by ordinance.

#### **14C.20.060 Found Property.**

All found property in the custody of the Portland Police Bureau will be held, and a reasonable attempt will be made to return the property to the owner. If the owner of found property held by the Bureau of Police cannot be determined, or no owner comes forward to claim the property, the property may be disposed after 30 days from the date the property was taken into custody by the Portland Police Bureau in the manner provided by law.

## **Chapter 14C.30 General Procedures and Authority of the Portland Police Bureau**

#### **14C.30.010 Authority to Restrict Access to Certain Areas.**

**A.** Whenever a threat to the public health or safety is created by any emergency, a Portland police officer may restrict or deny access to any persons to the area where such threat exists, for the duration of such threat, when the officer reasonably believes the presence of such persons would constitute a danger to themselves or others or would substantially interfere with the performance of the police or other emergency services. For purposes of this Section, an emergency includes, but is not limited to an escaped prisoner, a natural disaster, a fire, an explosion, an accident, a riot, the presence of an armed person, a hostage incident or a bomb threat.

**B.** Whenever it appears to be reasonably necessary to investigate, or to preserve or collect evidence of criminal acts, a police officer may restrict or deny access to any area.

**C.** As used in this Section, **restrict or deny access** means that a police officer has the authority to regulate or prohibit the presence or movement of persons or vehicles to, from, and within any area, to evacuate persons and to move or remove any property therefrom, until the reason for such restriction or denial of access no longer exists.

**D.** It is unlawful for any person to enter or to refuse to leave any area closed or restricted in access pursuant to Subsections A. or B. above, unless such person has specific statutory authority, or the permission of the on-scene ranking police officer, to be within such area.

**E.** In accordance with the authority granted by this Section, and in consideration of the law enforcement and emergency services needs involved, provision will be made for reasonable access to such areas by members of the media for the purpose of news gathering and reporting.

#### **14C.30.020 Other Police Officers Authorized to Arrest, Cite, or Take Other Enforcement Action for Violations of City Code Provisions.**

Police officers, as defined in this Title, are authorized to arrest, issue a citation, or take other enforcement action for violations of the following Portland City Code provisions:

- A.** All provisions of Title 11, Tree Regulations;
- B.** All provisions of Title 14, Public Order and Police;
- C.** All provisions of Title 16, Vehicles and Traffic;
- D.** All provisions of Title 18, Noise Control; and
- E.** All provisions of Title 20, Parks and Recreation.

#### **14C.30.030 Authority to Direct Traffic on Public Rights of Way.**

Officers and reserve officers of the Portland Police Bureau are authorized to direct



pedestrian and vehicular traffic on any public right-of-way.

#### **14C.30.040 Seizure and Disposition of Weapons.**

**A.** The Portland Police Bureau may seize and take possession of any dangerous or deadly weapon that is possessed unlawfully, or used unlawfully, or used for an unlawful purpose. The weapon will be held subject to disposal as provided in this Section.

**B.** If it is determined that the weapon was not possessed, carried, or used unlawfully, the weapon will be released to the lawful owner if they file a timely written claim with the Bureau.

**1.** A claim is timely if it is filed:

**a.** Within 60 days after the weapon was seized, if it was not held for use as evidence, or

**b.** Within 60 days after it was released by directive of the Chief of Police or court order, if it was held for use as evidence.

**2.** If there is a question as to ownership or right to possession, the weapon will be released as ordered by the court.

**C.** If the name and address of a person entitled to claim possession of a weapon under Subsection B. is known to the Portland Police Bureau, the Bureau will give that person notice as provided in Chapter 14C.20.

**D.** If the weapon is not claimed under the provisions of Subsection B. or was possessed, carried, or used unlawfully by the owner, it is a nuisance. Subject to a court order to the contrary, the weapon will be disposed of as provided in Subsections E. through G.

**E.** Subject to approval of the Property/Evidence Division, if the weapon is a firearm suitable for use by the Portland Police Bureau, it may be added to the inventory of the Bureau.

**F.** Subject to Subsection C. if the weapon is a shotgun or rifle, it will be delivered to the Property/Evidence Division, which will dispose of it in the same manner as surplus property. However, disposal will be only to persons who have prequalified with the Property/Evidence Division as being licensed to sell firearms at retail.

**G.** Any weapon described in Subsection D. that is not disposed of as ordered by the court, or as provided in Subsection E. or F., must be destroyed by the Property/Evidence Division.

#### **14C.30.050 Seizure of Dangerous and Deadly Weapons for Safekeeping.**

If a police officer reasonably believes that a dangerous or deadly weapon may be used to cause serious harm to any person, the police officer may temporarily seize the weapon for safekeeping. If an officer seizes a weapon under this Section, they must promptly turn the weapon into the Portland Police Bureau Property/Evidence Division.

#### **14C.30.060 Caretaking of Property.**

At the discretion of a police officer, property may be received for safekeeping or the prevention of crime.

#### **14C.30.070 Authority of TriMet to Prohibit Misuse of Transit Shelters and Loading Platforms on City Property.**

**A.** TriMet may make and enforce such ordinances and regulations as it deems necessary regarding misuse of transit shelters and transit loading platforms for the purpose of exclusion and criminal trespass.

**B.** For the purposes of this Section, the following definitions apply:

**1. Transit shelter** means the area within the drip line of any transit shelter within the limits of the City of Portland, except the Pioneer Square North and South stations.

**2. Transit loading platform** means the area that extends the entire length of the tactile bricks where TriMet operated trains and trolleys load and unload within the limits of the City of Portland. This area extends from the tracks to one foot past the rear of the TriMet ticket vending machines, or to the farthest drip line of the transit shelter, whichever is farthest from the tactile bricks.

#### **14C.30.080 Appeal of Designation as a Gang Affiliate.**

**A.** Any person who is to be designated as a gang affiliate by the Police Bureau following the administrative hearing provided for in the Portland Police Bureau Manual of Policy and Procedure or who has unsuccessfully challenged a gang affiliate designation at such a hearing, has a right of appeal to the Code Hearings Officer.

**B.** The appeal authorized by this Section will be conducted in accordance with the procedures and under the conditions set forth in Chapter 22.10 of this Code.