

UPDATE INFORMATION SHEET

The Auditor's office is responsible for providing update pages to

Vols. I & II – Portland City Code

Updates will be available periodically throughout the year. This sheet will provide you with the current update information to assist you in keeping your book current.

**Retain this sheet. It will be replaced with each mailing.
Please contact us should you have any questions 503-823-4082.**

Update Packet Enclosed	December 2006
Previous Update Packet	September 2006

Office of the City Auditor 503-823-4082
4th Quarter 2006 (December 2006)

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TITLE 2
LEGISLATION AND ELECTIONS

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- 2.12.060 Declaration Required by Lobbyists
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2.12.010 Purpose.

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

2.12.020 Definitions.

(Amended by Ordinance Nos. 180205 and 180620, effective December 22, 2006.) As used in this Chapter unless the context requires otherwise:

- A. “Calendar quarter” means one of the four three-month periods of January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31.
- B. “Calendar year” means the period of January 1 through December 31.
- C. “City director” means the director or individual in charge of the following or its successors: the Office of Transportation, the Office of Management and Finance, the Office of Government Relations, the Office of Neighborhood Involvement, the Office of Sustainable Development, the Office of Cable Communications and Franchise Management, the Portland Office of Emergency Management, the Bureau of Emergency Communications, the Bureau of Fire, Rescue and Emergency Services, the Bureau of Police, the Bureau of Parks and Recreation, the Bureau of Environmental Services, the Bureau of Water Works, the Bureau of Development Services, the Bureau of Housing and Community Development, the Bureau of Planning, the Bureau of Revenue, and the Portland Development Commission.
- D. “City official” means any City elected official; the at will staff of a City elected official; any City director as defined in this section; or appointee to the Portland Development Commission, the Portland Planning Commission, the Design Commission, and the Fire and Police Disability and Retirement Board.

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- E.** “Consideration” includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.
- F.** “Official action” means introduction, sponsorship, testimony, debate, voting or any other official action on any ordinance, measure, resolution, amendment, nomination, appointment, or report, or any matter, including administrative action, that may be the subject of action by the City.
- G.** “Lobby” or “Lobbying” or “Lobbies” means attempting to influence the official action of City officials. Lobbying includes time spent preparing emails and letters and preparing for oral communication with a City official. Lobbying does not include:
 - 1.** Time spent by an individual representing his or her own opinion to a City official.
 - 2.** Time spent participating in a board, committee, working group, or commission created by City Council through approval of resolution or ordinance.
 - 3.** Time spent by a City official or City employee acting in their official capacity as an official for the City.
 - 4.** Time spent submitting a bid, responding to related information requests, negotiating terms on a competitively bid contract.
 - 5.** Oral or written communication made by a representative of a labor organization that is certified or recognized, pursuant to ORS 243.650 et seq., as the exclusive bargaining representative of employees of the City of Portland, to the extent that such communications do not deal with actual or potential ordinances that are unrelated to the collective bargaining process, or implementation or application of any collective bargaining agreement provision.
 - 6.** Formal appearances to give testimony before public hearings or meetings of City Council.
 - 7.** Work performed by a contractor or grantee pursuant to a contract with or grant from the City.
 - 8.** Time spent by any person holding elected public office, or their specifically authorized representative, acting in their official capacity.

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- H.** “Lobbying entity” means any individual, business association, corporation, partnership, association, club, company, business trust, organization or other group who lobbies either by employing or otherwise authorizing a lobbyist to lobby on that person’s behalf.
- I.** “Lobbyist” means:
- 1.** Any individual who is authorized to lobby on behalf of a lobbying entity for money or any other consideration.
 - 2.** Any individual not otherwise subject to subsection 2.12.020 I.1. who is authorized to lobby on behalf of a lobbying entity.
- J.** “Person” means any individual, business association, corporation, partnership, association, club, company, business trust, organization or other group.
- K.** “Gift” means something of economic value given to a City official without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not City officials on the same terms and conditions; and something of economic value given to a City official for valuable consideration less than that required from others who are not City officials. However, “gift” does not mean:
- 1.** Campaign contributions, as described in ORS Chapter 260.
 - 2.** Gifts from family members.

2.12.030 Registration for Lobbying Entities.

(Amended by Ordinance No. 180205, effective June 7, 2006.)

- A.** Within three working days after a lobbying entity spends a cumulative total of more than 16 hours or estimates that it has spent more than a cumulative total of 16 hours during any calendar quarter lobbying, the lobbying entity shall register with the City Auditor by filing with the Auditor a statement containing the following information:
- 1.** The name, address, email, website and telephone number of the lobbying entity;
 - 2.** A general description of the trade, business, profession or area of endeavor of the lobbying entity;
 - 3.** The names, addresses, email, website and telephone number of all lobbyists who are employed by or otherwise authorized to lobby on behalf

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of the lobbying entity. The list must include:

- a.** Individuals who are paid to lobby for the interests of the lobbying entity.
 - b.** Other persons, including lobbying entity employees or volunteers, who are authorized to lobby on behalf of the lobbying entity.
- 4.** The subjects and any specific official actions of interest to the lobbying entity.
- B.** A business, organization, or association who anticipates registering as a lobbying entity is encouraged to register at the beginning of each calendar year.
- C.** Registrations shall expire December 31 of every year. Lobbying entities shall renew their registrations once the 16-hour threshold has been reached in each calendar year.
- D.** An authorized representative of the lobbying entity must sign the registration required by this Section.

2.12.040 Quarterly Reporting Requirements for Lobbying Entities.

(Amended by Ordinance Nos. 180205 and 180620, effective December 22, 2006.)

- A.** A lobbying entity registered with the City Auditor or required to register with the City Auditor shall file a report, if the lobbying entity has spent an estimated 16 hours during the preceding calendar quarter lobbying, with the City Auditor, by April 15, July 15, October 15, and January 15, showing:
 - 1.** The specific subject or subjects of the official action of interest to the lobbying entity, including but not limited to the names of City officials a lobbying entity met with or contacted through direct mail, email or telephone regarding such subject or subjects, the name of the registered lobbyist representing the entity and the date of the contact
 - 2.** A good faith estimate of total moneys, if the total exceeds \$1000.00, expended by the lobbying entity or any lobbyist employed by or otherwise authorized to lobby on behalf of the lobbying entity, for the purpose of lobbying City officials on behalf of the lobbying entity in the preceding calendar quarter reporting period for:
 - a.** Food, refreshments, travel and entertainment;
 - b.** Printing, postage and telephone;

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- c. Advertising, direct mail and email;
 - d. Miscellaneous and gifts;
 - e. Compensation paid to lobbyists; and
 - f. Reimbursements to lobbyists for their expenses.
 3. The name of any City official to whom or for whose benefit, on any one occasion, the lobbying entity made an expenditure in excess of \$25.00 in the preceding calendar quarter for the purposes of lobbying, and the date, name of payee, purpose and amount of that expenditure.
- B. Statements required by this section need not include amounts expended by the lobbying entity for personal living and travel expenses and office overhead, including salaries and wages paid for staff and secretarial assistance, and maintenance expenses. If the amount of any expenditure required to be included in a statement is not accurately known at the time the statement is required to be filed, an estimate of the expenditure shall be submitted in the statement and designated as an estimate. The exact amount expended for which a previous estimate was made shall be submitted in a subsequent report when the information is available.
- C. A lobbying entity shall update any information submitted in Section 2.12.030 that has changed since registration.
- D. A statement required by this section shall include a copy of any notice provided to a City official under ORS 244.100(3).
- E. An authorized representative of the Lobbying Entity must sign the declaration required by Section 2.12.090 A for each quarterly report.
- F. Lobbying entities who do not anticipate spending over \$1,000 per calendar quarter for the purpose of lobbying may sign and file a certificate of limited expenditure provided by the Auditor's office in lieu of the financial portion of the quarterly report described in Section 2.10.040 A.2. The certificate affirms that the lobbying entity will spend less than the threshold required for quarterly financial reporting of moneys expended under Section 2.12.040 A.2. If a lobbying entity that files a certificate of limited expenditure spends over \$1,000 in a calendar quarter for the purpose of lobbying, the lobbying entity shall withdraw the certificate of limited expenditure and shall report moneys expended pursuant to Section 2.12.040 A.2.

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

2.12.050 Exemptions to Registration and Reporting Requirements for Lobbying Entities.

(Amended by Ordinance No. 180620, effective December 22, 2006.) In addition to the thresholds set forth in Section 2.12.030 and 2.12.040 for the registration, reporting and financial reporting of lobbying entities, Sections 2.12.030 and 2.12.040 do not apply to the following persons:

- A.** News media, or their employees or agents, that in the ordinary course of business directly or indirectly urge official action but that engage in no other activities in connection with the official action.
- B.** Lobbying entities who employ lobbyists or otherwise authorize persons to lobby on their behalf if such lobbyists cumulatively spend not more than 16 hours lobbying on behalf of a lobbying entity during any calendar quarter.
- C.** Any lobbying entity that satisfies all three of the following requirements:
 - 1.** Complies with state public record and meeting laws or with the standards referenced in Section 3.96.020 G.;
 - 2.** Is classified as a non-profit organization, registered with the Oregon Secretary of State Corporation Division; and
 - 3.** Is formally recognized by the Office of Neighborhood Involvement or through City Council resolution or ordinance.

2.12.060 Declaration Required by Lobbyists

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

2.12.070 Reporting Requirements for City Officials

(Amended by Ordinance Nos. 180205 and 180620, effective December 22, 2006.)

- A.** City officials shall file written reports documenting any gifts, meals or entertainment in excess of \$25.00 received from a lobbying entity or any person authorized to lobby on the lobbying entity's behalf. Such reports shall include:
 - 1.** Name of lobbying entity, and if applicable, name of lobbyist;

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2. Subject of lobbying;
 3. Value of gift, meal or entertainment; and
 4. Date of receipt.
- B.** City officials shall file written reports after a lobbyist or lobbying entity has agreed to make a donation of personal or real property to the City. Such reports shall include:
1. Name of lobbying entity, and if applicable, name of lobbyist;
 2. Gift or donation requested;
 3. Purpose of donation; and
 4. Date of request.
- C.** The reports, if any, required by subsections 2.12.070 A. and B. shall be filed with the City Auditor 15 days after the end of the calendar quarter. City officials, other than elected officials, are not required to file reports with the Auditor if the amount of the gift, meal or entertainment is less than \$25.00 or if no gifts or donations have been requested in the calendar quarter.
- D.** Elected officials and City directors shall post their calendars of activities related to official City business to the lobbyist website designated by the City Auditor 15 days after the end of the calendar quarter for the previous calendar quarter, unless an elected official or City director determines that such posting poses a safety threat.
- E.** A City Official may amend a quarterly report without penalty if he or she files the amended report within 25 days after the end of the calendar quarter.

2.12.080 Prohibited Conduct.

- A.** No former City elected official, City director or other employee shall, for a period of one year after the termination of the employee's term of office or employment, lobby for money or other consideration a City official, regarding any subject matter on which the employee participated personally and substantially during the employee's term of office or employment; provided, that if the employee exercised contract management authority with respect to a contract, this prohibition shall be permanent as to that contract.
- B.** The prohibitions in this Section shall not apply to:

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

2.12.090 Verification of Reports, Registrations and Statements.

- A. Each report, registration or statement required by this Chapter shall contain or be verified by a written or electronic declaration that it is made under the penalties of false swearing. Such declaration shall be in lieu of any oath otherwise required.
- B. No person shall willfully make and subscribe any document which contains or is verified by a written or electronic declaration for false swearing which the person does not believe to be true and correct to every matter.

2.12.100 Public Nature of Reports, Registrations and Statements.

All information submitted to the City Auditor in any report, registration or statement required by this Chapter is a public record and will be posted on Office of the Auditor website within three business days.

2.12.110 Auditor's Duties.

In carrying out the provisions of this Chapter, the City Auditor:

- A. Shall prescribe forms for registrations, statements and reports, and provide such forms to persons required to register and to file such statements and reports;
- B. Shall accept registrations and reports in an electronic format;

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- C.** Shall accept and file any information voluntarily supplied that exceeds the requirements of this Chapter;
- D.** Shall make registrations, statements and reports filed available for public inspection and copying during regular office hours, and make copies available. The Auditor may charge fees to recover the cost of retrieval and copying;
- E.** May audit whether registrations and reports required by this Chapter have been completed properly and within the time frames specified in this Chapter;
- F.** Is authorized to adopt administrative rules to carry out the duties and to administer the provisions of this Chapter.

2.12.120 Penalties.

A person who violates any provision of this Chapter or fails to file any report, registration or statement or to furnish any information required by this Chapter shall be subject to a civil penalty in an amount not to exceed \$500.00 per violation. At the request of the Auditor, the City Attorney may seek civil penalties and enforcement of any provision of this Chapter in Multnomah County Circuit Court or other appropriate venue.

2.12.130 Severability.

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

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- C.** At no time shall the cumulative land area within the boundaries of homebuyer opportunity areas exceed 20 percent of the total land area of the city.
- D.** The Bureau of Planning shall also establish the price limit of newly constructed single-unit housing eligible for the limited property tax exemption as provided by this Chapter. The price limit shall not exceed 120 percent of the median sales price of single-family homes located within the city. The median sales price shall be determined, with assistance by the County Assessor, using the sales data collected under ORS 309.200 for the period ending the prior November 30 relative to single-family homes. In addition, the Bureau of Planning may use data made available by the real estate and construction or other appropriate industry. The median sales price shall be established by resolution prior to January 1 of each year during the effective time of this program.

3.102.100 Sunset of the Exemption for Owner-Occupied Rehabilitation and New Single-Unit Residences in Distressed Areas.

(Repealed by Ordinance No. 170667, effective Oct. 23, 1996.)

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Chapter 3.103

**PROPERTY TAX EXEMPTION FOR NEW TRANSIT SUPPORTIVE
RESIDENTIAL OR MIXED USE DEVELOPMENT**

(New Section added by Ordinance No. 170667,
effective Oct. 23, 1996)

Sections:

- 3.103.005 Purpose.
- 3.103.010 Definitions.
- 3.103.020 Eligible Projects and Sites.
- 3.103.025 Pre-application Procedure.
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- 3.103.055 Rate of Return Analysis.
- 3.103.060 Exemption.
- 3.103.070 Termination.
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3.103.005 Purpose.

The purposes of this property tax exemption are to encourage the development of high density housing and mixed use projects affordable to a broad range of the general public on vacant or underutilized sites within walking distance of light rail or fixed route transit service, and to enhance the effectiveness of the light rail or fixed route transit system.

3.103.010 Definitions.

(Replaced by Ordinance No. 180572, effective December 8, 2006.) As used in this Chapter:

- A. "Full funding agreement"** means an agreement executed by the Federal Transit Administration or other U.S. governmental agency which contains the terms and conditions applicable to the approval of a light rail project and the grant of federal funds for that project, which includes construction of planned stations and other light rail facilities.
- B. "Light rail station area"** means an area defined, for the purposes of this Chapter, to be within a one-quarter mile radius of an existing or planned light rail

station. A planned light rail station shall be defined as one that has achieved a full funding agreement.

C. "Multiple-unit housing" means newly constructed structures, stories or other additions to existing structures, and structures converted in whole or in part from other uses to dwelling units, and existing structures containing low income housing subject to a public assistance contract that meet the following criteria:

1. The structures must have ten or more dwelling units.
2. The structures must not be designed or used as transient accommodation, including but not limited to hotels and motels.
3. The structures must contain design elements benefiting the general public as specified in Section 3.103.040.
4. The structures must:
 - a. Enhance the effectiveness of the light rail or fixed route transit system by providing pedestrian connection to a light rail line or mass transportation system; and
 - b. Contain housing units with rental rates or purchase prices which are accessible to a broad income range of the general public; and
 - c. Provide public benefits and design features which further the purposes of this Chapter as demonstrated by compliance with the provisions of Section 3.103.040.

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

E. "Transit oriented area" means an area defined in a local transportation, community, neighborhood or other local or regional plan to be within one-quarter mile of a fixed route transit service including bus lines.

3.103.020 Eligible Projects and Sites.

(Replaced by Ordinance No. 180572, effective December 8, 2006.)

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- A.** The property tax exemption permitted by this Chapter is intended to benefit projects that emphasize:
 - 1.** The development of vacant or underutilized sites rather than sites where sound or rehabilitable multiple-unit housing exists;
 - 2.** The development of multiple-unit housing, with or without parking, in structures that may include ground-level commercial space;
 - 3.** The development of multiple-unit housing, with or without parking, on sites with existing single-story commercial structures;
 - 4.** The development of multiple-unit housing, with or without parking, on existing surface parking lots; and
 - 5.** The development of units at rental rates or purchase prices which are accessible to a broad income range of the general public.
 - 6.** Preservation of existing low income housing subject to a public assistance contract to provide low income housing.
- B.** Eligible projects shall be constructed, converted, or preserved after the date of adoption of this program, and completed on or before January 1, 2012.
- C.** For the purposes of this Chapter, eligible sites must be located within the following areas:
 - 1.** Light rail station areas within a one-quarter mile radius of an existing light rail station or a light rail station under construction on or before January 1, 2009, except that the site must be located outside the boundaries of the Central City Plan District as shown on Map 510-1 of Chapter 33.510 of the Portland Zoning Code. The distance from an eligible light rail station shall be measured from the center line of the light rail line tracks on which the station is located. Maps showing these areas are found at the end of this Chapter as Maps 3.103-2 through 3.103-3 (Maps 1 of 3 through 3 of 3) through Map 3.103-5, Map 3.103-7 (Maps 1 of 3 through 3 of 3), Map 3.103-8 (Maps 1 of 4 through 4 of 4) and 3.103-11 (Map 10 of 6 through 6 of 6). If a portion of the project site falls within the one-quarter mile distance, the entire site shall qualify as a property eligible to apply for this exemption; and
 - 2.** Transit oriented areas within the Gateway Plan District as included on Map 526-1 of Chapter 526 of Title 33, Planning and Zoning, and shown at the end of this Chapter as Maps 3.103-6 (Maps 1 of 5 through 5 of 5); and

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3. Transit oriented areas within the Lents Town Center as delineated on Map 11 of the adopted Outer Southeast Community Plan and shown at the end of this Chapter as Maps 3.103-9 (Maps 1 of 4 through 4 of 4); and
 4. Transit oriented areas along the Foster Road Main Street from Holgate Boulevard to SE 79th Avenue adjacent the Lents Town Center and shown at the end of this Chapter as Map 3.103-10; and
 5. Hollywood light rail station area and transit oriented areas along Sandy Boulevard and the Broadway Main Street shown at the end of this Chapter as Map 3.103-3. (Maps 1 of 3 through 3 of 3); and
 6. Transit oriented areas along the Martin Luther King Jr. Boulevard Main Street between Lombard and Broadway Streets as shown at the end of this Chapter on Map 3.103-12 Maps 1 of 4 through 4 of 4); and
 7. Transit oriented areas within a portion of the Northwest Plan District as shown at the end of this Chapter on Map 3.103-13.
 8. Transit-oriented area around the intersection of SW Barbur and Terwilliger Boulevards as shown at the end of this Chapter on Map 3.103-14.
 9. Transit oriented areas within the Hillsdale Town Center as shown at the end of this chapter on Map 3.103 -15.
- D.** In addition to the eligible areas noted above, the following criteria apply to individual projects:
1. Projects located on sites zoned R5, R7, R10, R20, or RF Single Dwelling Zones, as defined by Title 33, Planning and Zoning, are not eligible for the property tax exemption permitted by this Chapter.
 2. Multiple-unit projects which do not include ground floor commercial space must contain at least 35 housing units per net acre of site area to be eligible for the property tax exemption permitted by this Chapter.
 3. Mixed use projects containing ground floor commercial space must incorporate at least two times the amount of residential floor area to non-residential floor area and contain at least 20 housing units per net acre of site area.

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4. For the purposes of this Chapter, a rowhouse or townhouse development containing for sale or rental units is eligible so long as all other eligibility criteria of this Chapter are met.
- E. All eligible projects shall demonstrate that property tax exemption is necessary to achieve economic feasibility for the residential use, taking into account the additional costs incurred by the design features, public benefits, or minimum densities required in return for the incentives allowed by this Chapter.
- F. The City shall periodically review the areas eligible for the exemption granted to transit supportive development in response to transportation and/or community planning and policy initiatives which indicate the need to encourage desired development in other light rail station areas or transit oriented areas as defined in this Chapter. Such review shall occur at least every three years. The basis for considering the inclusion of new light rail station areas shall be the establishment of a full funding agreement.

3.103.025 Pre-application Procedure.

- A. A pre-application meeting will be required with the Portland Development Commission staff prior to submitting a complete application. On forms provided by staff, the prospective applicant shall include the following:
 1. A schematic drawing, showing the site plan, including major features and dimensions of the proposed development;
 2. A statement describing the location of the proposed development; the number, size, and type of individual dwelling units; a preliminary pro forma showing expected rents or purchase prices of the dwelling units; the dimensions of the multiple-unit structure(s); the approximate amount of floor area dedicated to the types of uses envisioned; public and private access; parking and circulation plans; a description of the public benefits proposed; and any additional information that would demonstrate the eligibility of the project for the property tax exemption, including its physical and functional connection to the nearest transit service. However, certain items of information may be waived for projects under design or if applicants request guidance in order to submit material sufficient for a complete application.
- B. Prior to the meeting, the staff shall review the information supplied and contact, for purposes of facilitating the application process, those bureaus, bodies, or other governmental agencies which may be affected by, or have an interest in, the proposed development.

- C. The applicant shall meet with staff and discuss the proposed development. Thereafter, the Development Commission staff shall provide the applicant with a summary of the meeting, including recommendations designed to assist the applicant in the preparation of the exemption application. Staff guidance shall be provided indicating the minimum requirements for meeting the provisions of Section 3.103.040 of this Chapter.

3.103.030 Application Procedure.

(Replaced by Ordinance No. 180572, effective December 8, 2006.)

- A. A person seeking an exemption under the terms of this Chapter shall apply to the Portland Development Commission not later than September 1 of the calendar year immediately prior to the first assessment year for which the exemption is requested. The application for the exemption shall be on forms prescribed by the Commission staff and include the following information:

1. The applicant's name, address, and telephone number;
2. A legal description of the property and property account number;
3. A detailed description of the project, including the number, size, and type of dwelling units; dimensions of the multiple-unit structure(s), parcel size, proposed lot coverage of building, and amount of open space; type of construction; expected rents or purchase prices of the dwelling units; public and private access; parking and circulation plan; number of residential and commercial off-street parking spaces; the source of water and proposed method of sewage disposal; other utilities requirements; landscaping; proposed amount of floor area dedicated to residential and nonresidential uses; a description of the public benefit(s) prescribed in 3.103.040 included in the project including any extension of public benefits from the project beyond the period of the exemption; and economic feasibility studies or market analysis, when appropriate. In addition, the application shall contain a detailed construction and operating cost analysis to demonstrate the applicant's economic need for the tax exemption. Evidence of cost comparisons may be required when appropriate;

In addition, the application shall contain a detailed construction and development cost analysis, sources and uses of funds analysis, operating income and expense analysis, and projected ten-year operating cash flow analyses for two scenarios: (1) modeling the project's operations with the tax abatement and (2) modeling the project's operations without the tax abatement. Each of these projected ten-year operating cash flow analyses shall include a calculation of the internal rate of return for the project.

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Internal rate of return is the annual discount rate, expressed as a percent, on a series of annual cash flows at which the net present value of an initial investment is equal to zero. The foregoing economic analyses shall be used to demonstrate the applicant's economic need for the tax exemption. In determining this economic need the Portland Development Commission shall verify the applicant's projected internal rate of return for the project based on invested cash, equity, economic conditions, and other related factors as prescribed in Section 3.103.050 B.

4. A description of the existing use of the property, including if appropriate a justification for the elimination of existing sound and rehabilitable housing;
 5. A site plan and supporting maps, drawn to a minimum scale of one inch equal to 16 feet, or a scale suitable for reproduction on 8-1/2" by 11" paper, showing the development plan of the entire project including streets, driveways, sidewalks, pedestrian ways, off street parking, loading areas, location, design, and dimension of structures, use of land and structure(s), major landscaping features, existing and proposed utility systems, including sanitary and storm sewers, water, electric, gas and telephone lines; and
 6. Such other information required by state or local law or otherwise which is reasonably necessary to effectuate the purposes of this Chapter, including a demonstration of the project's physical and functional connection to the nearest transit service.
- B. Concurrent with the submission of the application, an application fee as established by the Portland Development Commission shall be required.

3.103.040 Public Benefits.

(Replaced by Ordinance No. 180572, effective December 8, 2006.)

- A. Purpose. The purpose of this Section is to achieve the type of higher density, mixed-income, transit oriented development desired by the adoption of this Chapter in addition to furthering other public policy goals of the City and the County. Therefore, a number of options are presented to the applicant in order to meet an affordability requirement and achieve one or more public benefits.
- B. Except for the provisions of Section 3.103.040 D below, all rental projects containing more than 15 units applying for the exemption under the terms of this Chapter must comply with one of the following affordability requirements in either paragraph B.1 or paragraph B.2. These affordable units shall be subject to an Extended Use Agreement (EUA) requiring that they be rented in accordance

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with these rent and income restrictions for a period that is 5 years longer than the tax abatement period (for example, a 10-year tax abatement period would result in a 15-year EUA). The EUA will be recorded against the property and will appear as a lien on the property's title. Compliance with the EUA shall be certified by the owner to the Portland Development Commission on a yearly basis. The EUA will be administered as described in Section 3.103.055. The units meeting the affordability requirement must match the unit mix in the project as a whole in terms of number of bedrooms.

- 1.** The project must include within the project and for the term of the exemption at least 20 percent of the units, or residential square footage dedicated to units, for rent at rates which are affordable to households earning 60 percent or less of the area median income:
 - a.** For the units affordable to households earning 60 percent or less of the area median income under the terms of this Chapter, the units must be rented to households whose incomes do not exceed 60 percent of the area median income upon initial occupancy of the unit by that household. Subsequent monitoring of the incomes of these households is not required until the affordable unit again becomes available for rent, at which time it must be rented to an income qualified household earning 60 percent of the area median income for the remaining term of the property tax exemption, unless another unit has subsequently been rented at an equivalent affordable rate to a qualified household so that the project continues to comply with all provisions of this Section.
 - b.** Measurement of household income shall be determined using the U.S. Department of Housing and Urban Development's, or its successor agency's, annual household income for the Portland Metropolitan Area for a family of one person (for a studio apartment), two persons (for a one-bedroom apartment), three persons (for a two-bedroom apartment), or four persons (for a three-bedroom apartment). Affordability shall be defined as a rental rate which does not exceed 30 percent of the monthly gross income for a family earning 60 percent or less of the area median income.
- 2.** In the alternative to B.1, the project must include within the project and for the term of the exemption at least 10 percent of the units, or residential square footage dedicated to units, for rent at rates which are affordable to households earning 30 percent or less of the area median income:

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- a.** For the units affordable to households earning 30 percent or less of the area median income under the terms of this Chapter, the units must be rented to households whose incomes do not exceed 30 percent of the area median income upon initial occupancy of the unit by that household. Subsequent monitoring of the incomes of these households is not required until the affordable unit again becomes available for rent, at which time it must be rented to an income qualified household earning 30 percent of the area median income for the remaining term of the property tax exemption, unless another unit has subsequently been rented at an equivalent affordable rate to a qualified household so that the project continues to comply with all provisions of this Section.
 - b.** Measurement of household income shall be determined using the U.S. Department of Housing and Urban Development's, or its successor agency's, annual household income for the Portland Metropolitan Area for a family of one person (for a studio apartment), two persons (for a one-bedroom apartment), three persons (for a two-bedroom apartment), or four persons (for a three-bedroom apartment). Affordability shall be defined as a rental rate which does not exceed 30 percent of the monthly gross income for a family earning 30 percent or less of the area median income.
- C.** All projects containing housing units available for individual purchase shall receive the property tax exemption only for those for-sale units which are available at an initial purchase price which does not exceed 95 percent of the Federal Housing Administration mortgage maximum for a single unit in the Portland Metropolitan area. The unit must be sold to a household earning no more than 100 percent of the area median income for a family of four as established by the U.S. Department of Housing and Urban Development, or its successor agency, during the year of sale in order to retain its property tax exempt status.
 - 1.** In order to qualify for this exemption, such units must be owner-occupied during the term of the exemption. Should any unit become available for sale during the term of the exemption, it must be sold to a household earning no more than 100 percent of the area median income for a family of four as established by the U.S. Department of Housing and Urban Development, or its successor agency, during the year of sale in order to retain its property tax exempt status.
- D.** In addition to the applicable provisions of subsections A through C above, the project must include three of the following:

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1. At least 20 percent of the rental units must be dedicated and fully accessible during the term of the exemption by covenant to households which include persons with special needs, such as the mentally or physically disabled or other categories of persons as defined by the Federal Fair Housing Amendments Act of 1988;
2. At least 10 percent of the rental units must include three or more bedrooms;
3. The project must provide child care on-site or support child care through a service provider with a facility located within 1200 feet of a light rail station or within 400 feet of a transit stop at 25 percent of the annual value of the property tax exemption for each year of the term of the exemption, such in-lieu support being dedicated to project residents or other households earning 60 percent or less of the area median income;
4. The project must provide a residential unit per acre density equivalent to at least 80 percent of the applicable maximum density as allowed by the base zone as established by Title 33, Portland Zoning Code, except that this alternative shall not be available to projects on sites with R1 zoning. For sites with RH, IR, CN, CO, CM, CS, or CG zoning, this requires at least 68 units per net acre. For sites with RX, CX, EX, or other zoning, this requires at least 139 units per net acre;
5. Ground floor service or commercial use which is permitted and serves project residents, neighboring residents, and transit riders;
6. Office space or meeting room for community organizations;
7. Permanent dedications for public use including open space, community gardens, or pedestrian and bicycle connections to public trails and adjoining neighborhood areas;
8. Family oriented recreational facilities for the children of project residents;
9. Dedicated car-share space(s);
10. Structured parking;
11. LEED Silver certification from the US Green Building Council;
12. Twice the percentage of affordable units, or residential building square footage dedicated to affordable units, than is required by subsection B of this section; or.

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- 13.** Other benefits as proposed by the developer and approved by the Planning Commission.
 - 14.** Transportation improvements above those required by development standards approved by the Portland Office of Transportation and the Planning Commission.
 - 15.** An agreement to sell off-street parking spaces separate from condominium units so that a unit can be purchased without a parking space.
- E.** Staff from the Portland Development Commission shall confer, at a minimum, with the staffs of the Planning Bureau and the Office of Transportation for advice and confirmation regarding compliance with the relevant public benefits, plan policies, and transit oriented design features applicable to the project. Other bureaus or agencies indicating interest shall also be invited to comment. Written comments received from staff shall be entered into the record of the adopting report and recommendation presented before the Planning Commission.

3.103.045 Approval Criteria.

(Replaced by Ordinance No. 180572, effective December 8, 2006.) An application may be recommended for approval if the Portland Development Commission staff establishes conditions which ensure that:

- A.** Within 60 days of receipt of a complete application, the staff of the Portland Development Commission shall review the application for economic feasibility and other requirements of this chapter and shall recommend to the Planning Commission that the application be denied or approved subject to conditions. If the anticipated internal rate of return for the project for the period of the exemption exceeds ten percent, the Portland Development Commission staff shall recommend that the application be denied. Portland Development Commission staff may require modifications to the project design in order to further the public goals of this Chapter.
- B.** The project containing these public benefits and affordable units would not otherwise be financially feasible without the benefit provided by the property tax exemption;
- C.** The construction project will, at the time of completion, conform with the applicable provisions of Titles 17, 24, 32, 33, 34; and
- D.** The applicant has complied with Sections 3.103.010, 3.103.020, 3.103.030, and 3.103.040.

3.103.050 Review of Application.

(Replaced by Ordinance No. 180572, effective December 8, 2006.)

- A.** Within 60 days of receipt of a complete application, the staff of the Portland Development Commission shall review the application for economic feasibility and other requirements of this chapter and shall recommend to the Planning Commission that the application be denied or approved subject to conditions. If the anticipated internal rate of return for the project for the period of the exemption exceeds ten percent, the Portland Development Commission staff shall recommend that the application be denied. Portland Development Commission staff may require modifications to the project design in order to further the public goals of this Chapter.
- B.** If the recommendation is for approval, the report shall contain a recommendation stating the terms and conditions of approval, which shall be made available to the applicant, the Planning Commission, and any interested agencies or individuals at least 14 days prior to consideration of the recommendation at a hearing conducted before the Planning Commission.
- C.** Within 60 days of receiving the report and recommendation of the Portland Development Commission staff, Planning Commission shall review application to determine if the development is consistent with the public benefit requirements of this chapter and recommend to deny or to approve it subject to conditions.
- D.** The Commission shall instruct Planning Bureau staff to forward to City Council an ordinance within 30 days that shall include: the owner's name and address; a description of the multiple-unit housing; the legal description of the property and the Assessor's property account number; and all conditions imposed and upon which the recommendation for approval of the application is based.
- E.** City Council shall approve or deny the application by ordinance within 30 days of the Planning Commission's recommendation. Final action will be in the form of an ordinance that includes all conditions imposed and upon which the approval of the application is based. An application not acted upon within 180 days from the date of application shall be deemed approved.
- F.** If the application is denied, a notice of denial shall be sent to the applicant within 10 days following the denial. The notice shall state the reasons for denial.
- G.** If the application is approved, the Planning Bureau shall on or before April 1 file with the Assessor a copy of the ordinance approving the application.

3.103.055 Rate of Return Analysis.

(Added by Ordinance No. 180572, effective December 8, 2006.)

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- A.** The owner shall provide financial data on an annual basis to the Portland Development Commission for each tax year that the exemption is in effect. The financial data shall be provided to the Portland Development Commission no later than 120 days from the close of the owner's fiscal year. The financial data shall include, but is not limited to, full project-based financial statements, Internal Revenue Service tax information, a ten-year operating cash flow statement showing actual cash flow for all prior years and the current year and shall include a to-date calculation of the internal rate of return for the project, and any other information deemed necessary by the Portland Development Commission to calculate or otherwise evaluate the owner's internal rate of return for the project.
- B.** For each year of the exemption, the Portland Development Commission shall prepare an annual analysis of the owner's financial data within 90 days of receipt of all required financial data from the owner. The analysis shall include a to-date calculation of the internal rate of return for the project. The Portland Development Commission shall calculate the internal rate of return by the same method utilized in its initial recommendation for the tax abatement.
- C.** The Portland Development Commission shall advise the owner annually in writing as to whether the financial analysis demonstrates that the projected internal rate of return for the project will exceed ten percent for the entire exemption period and could result in an Accrued Payment Liability ("APL") as calculated pursuant to Section 3.103.055 D.
- D.** The EUA will be terminated at the end of the tax abatement period, if the internal rate of return for the project is less than or equal to 10 percent.

If the 10-year internal rate of return for the project is greater than 10 percent, then:

- 1.** The EUA shall be maintained on a portion or all of the units covered by the EUA as calculated in Section 3.103.055; or
- 2.** The property owner shall pay an APL that shall be paid as calculated pursuant to this Section.

If as a result of the analysis prepared after the final year of the exemption, the Portland Development Commission has calculated that the internal rate of return during the term of the exemption has exceeded ten percent, the Portland Development Commission shall notify the Bureau of Planning. The Bureau of Planning shall send a notice to the last known address of the owner stating that the owner, at its option, shall either pay the APL to the City in order to have the EUA terminated or, alternatively, be subject to the EUA for the remainder of the EUA as calculated in this Section.

The amount of the APL shall be equal to (1) the net present value, using a 10 percent annual discount rate of the difference between the project's actual annual cash flows over the abatement period and the proforma projected cash flows for the project that would provide a 10 percent internal rate of return for the abatement period or (2) equal to the maximum amount of property taxes that would have been assessed if no exemption had been granted, whichever is less.

If the internal rate of return for the project is calculated to be greater than 10 percent and the project owner elects not to pay the APL, then the EUA will be maintained on the number of units required to reduce net present value, using a 10 percent annual discount rate, of the project's projected market-rate (unrestricted) annual cash flows, during the 5-year EUA period after the end of the tax abatement period, by an amount equal to the APL.

3.103.060 Exemption.

(Replaced by Ordinance No. 180572, effective December 8, 2006.)

- A.** Except as provided for under subsection D, multiple-unit housing for which an exemption has been approved under the terms of this Chapter shall be exempt from ad valorem taxation for up to 10 successive years beginning July 1 of the year immediately following the calendar year in which construction is completed, determined by that stage in the construction process when, pursuant to ORS 307.330, the improvement would have gone on the tax rolls in the absence of the exemption. The exemption shall not include the land upon which the project is located, nor any improvement not part of the multiple-unit housing except for those improvements deemed a public benefit as specified in 3.103.040. The exemption provided in this section shall be in addition to any other exemption provided by law.
- B.** In the case of a structure converted in whole or in part from other uses to multiple family, only the increase in value attributed to the conversion shall be eligible for the exemption.
- C.** In either case, the value of the exemption shall not exceed 100 percent of its real market value.
- D.** If multiple-unit housing is subject to a public assistance contract to provide low income housing, the term of the exemption shall be through June 30 of the tax year during which the termination date of the contract falls.

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3.103.070 Termination.

(Amended by Ordinance Nos. 178286, 179844 and 180572, effective December 8, 2006.)

If, after an application has been approved under this Chapter, the City finds that the work was not completed on or before January 1, 2012; that any provision of this Chapter has not been complied with including a determination by the Portland Development Commission as provided in Section 3.103.055 that the internal rate of return for the project exceeds ten percent for the exemption period; or that any agreement by the owner or requirement imposed is not being satisfied; the Portland Development Commission staff shall send a notice of proposed termination of the exemption to the owner's last known address.

- A.** The notice shall state the reasons for the proposed termination, and shall require the owner to appear before the City Council at a specified time, not less than 20 days after mailing the notice, to show cause, if any, why the exemption should not be terminated.
- B.** If the owner fails to show cause why the exemption should not be terminated, the City Council shall adopt a resolution terminating the exemption. A copy of the resolution shall be filed with the County Assessor and a copy sent to the owner at his last known address within 10 days after its adoption.
- C.** If the owner does not seek review of the termination of an exemption pursuant to ORS 34.010 to 34.100, upon final adjudication, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under ORS 311.205 to 311.235, to provide for the assessment and taxation of any property for which exemption was terminated or modified by the City or by a court, in accordance with the finding of the City or the court as to the assessment year in which the exemption is first to be terminated. The County Assessor shall make such valuation of the property as shall be necessary to permit such correction of the rolls. The owner may appeal any such valuation in the same manner as provided for appeals under ORS 311.207 to 311.213. Where there has been a failure to comply with ORS 307.670, the property shall become taxable beginning July 1 of the calendar year in which the noncompliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th of the month next following the month of correction. If not paid within such period, the additional taxes shall be delinquent on the date they would normally have become delinquent if timely extended on the roll or rolls in the year or years for which the correction was made.

3.103.080 Extension of Deadline.

(Amended by Ordinance Nos. 178286 and 179844, effective December 21, 2005.)

Notwithstanding the provision of 3.103.070, if the City finds that construction of the multiple-unit housing was not completed by January 1, 2012, due to circumstances

beyond the control of the owner, and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, the City may extend the deadline for completion of construction for a period not to exceed 12 consecutive months.

3.103.090 Implementation.

The Portland Development Commission shall establish procedures and prepare forms for implementation, administration, and monitoring for compliance with the provisions of this Chapter.

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Chapter 3.104

**PROPERTY TAX EXEMPTION FOR
NEW, MULTIPLE-UNIT
HOUSING**

(Substituted by Ordinance No. 162854,
effective Mar. 22, 1990.)

Sections:

- 3.104.010 Eligible Property.
- 3.104.020 Pre-application Conference.
- 3.104.030 Application Procedure.
- 3.104.040 Public Benefits.
- 3.104.045 Approval Criteria.
- 3.104.050 Review of Application.
- 3.104.055 Rate of Return Analysis
- 3.104.060 Exemption.
- 3.104.070 Termination.
- 3.104.080 Extension of Deadline.
- 3.104.085 Program Review.
- 3.104.090 Implementation.

3.104.010 Eligible Property.

(Amended by Ordinance Nos. 170667, 178286 and 179844, effective December 21, 2005.) To be eligible for the property tax exemption provided for by this Chapter a structure must meet all of the following criteria:

- A.** Be a multiple-unit structure having 10 or more dwelling units, and that include design elements benefiting the public as described in this Chapter and approved by City Council, including new construction and structures converted in whole or part from other uses, but not designed, used or intended to be used as transient accommodations, hotels or motels.
- B.** Be constructed after July 1, 1975, and completed on or before January 1, 2012; and
- C.** Located within either of the following described areas:
 - 1.** The Central City Plan District boundary as shown on Map A. Portland City Code Chapter 33.702; or

2. Within the boundaries of any urban renewal or redevelopment area formed pursuant to ORS Chapter 457.
- D.** Demonstrate that property tax abatement is required to achieve economic feasibility for the residential use intended.

3.104.020 Pre-application Conference.

- A.** An applicant shall request a pre-application conference with the Bureau of Planning, and at least 14 days prior to the date scheduled for the conference the applicant shall submit, on forms provided by the Bureau, the following:
1. A schematic drawing, showing the site plan, including major features and dimensions of the proposed development;
 2. A statement describing the location of the proposed development; the number, size and type of individual dwelling units; the dimensions of the multiple-unit structure(s), public and private access; parking and circulation plans; the source of water and proposed method of sewage disposal; landscaping; proposed residential and nonresidential uses; and a description of the public benefit prescribed in 3.104.040.
- B.** Prior to the conference, the Bureau shall review the information supplied and contact, for purposes of facilitating the application process, those bureaus, bodies, or other governmental agencies which may be affected by, or have an interest, in the proposed development.
The applicant shall meet with staff and discuss the proposed development. Thereafter, the Bureau shall provide the applicant with a summary of the meeting, including recommendations designed to assist the applicant in the preparation of the exemption application.

3.104.030 Application Procedure.

(Amended by Ordinance Nos. 170667, 171977 and 179487, effective August 10, 2005.)

- A.** A person seeking an exemption under the terms of this Chapter, shall apply to the Bureau of Planning not later than September 1 of the calendar year immediately prior to the first assessment year for which the exemption is requested. The application for the exemption shall be on forms prescribed by the Bureau and include the following information:
1. The applicant's name, address and telephone number;
 2. A legal description of the property and property account number;

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- 3.** A detailed description of the project including the number, size and type, of dwelling units; dimensions of the multiple-unit structure(s), parcel size, proposed lot coverage of buildings, and amount of open space; type of construction; public and private access; parking and circulation plans; the source of water and proposed method of sewage disposal; other utilities requirements; landscaping; proposed residential and nonresidential uses; a description of the public benefit(s) prescribed in 3.104.040 included in the project. The applicant shall provide cost comparisons and market studies if requested.

In addition, the application shall contain a detailed construction and development cost analysis, sources and uses of funds analysis, operating income and expense analysis, and projected ten-year operating cash flow analyses for two scenarios: (1) modeling the project's operations with the tax abatement and (2) modeling the project's operations without the tax abatement. Each of these projected ten-year operating cash flow analyses shall include a calculation of the internal rate of return for the project. Internal rate of return is the annual discount rate, expressed as a percent, on a series of annual cash flows at which the net present value of an initial investment is equal to zero. The foregoing economic analyses shall be used to demonstrate the applicant's economic need for the tax exemption. In determining this economic need the Portland Development Commission shall verify the applicant's projected internal rate of return for the project based on invested cash, equity, economic conditions, and other related factors as prescribed in Section 3.104.050 B.
 - 4.** A description of the existing use of the property, including if appropriate a justification for the elimination of existing sound and rehabilitable housing;
 - 5.** A site plan and supporting maps, drawn to a minimum scale of one inch equal to 16 feet, showing the development plan of the entire project including streets, driveways, sidewalks, pedestrian ways, off street parking, loading areas, location, design, and dimension of structures, use of land and structure(s), major landscaping features, existing and proposed utility systems, including sanitary and storm sewers, water, electric, gas and telephone lines; and
 - 6.** Such other information required by state or local law or otherwise which is reasonably necessary to effectuate the purposes of this Chapter.
- B.** Concurrent with the submission of the application, an application fee as determined by the Bureau of Planning and the Portland Development Commission shall be required. In addition to the application fee, the applicant may be required

to pay such other reasonable costs, including appraisal costs, incurred by the Assessor in processing the application. The Bureau of Planning shall collect any additional cost and pay the Assessor for the additional costs.

3.104.040 Public Benefits.

(Amended by Ordinance Nos. 178740 and 179487, effective August 10, 2005.)

- A.** Purpose. The purpose of this Section is to achieve the type of higher density, transit oriented development in the Central City and urban renewal areas desired by the adoption of this Chapter in addition to furthering other public policy goals of the City and the County. Therefore, a number of options are presented to the applicant in order to achieve one or more public benefits.
- B.** All rental projects containing more than 15 units applying for the exemption under the terms of this Chapter must include within the project and for a term of up to 15 years, but in no event less than the term of the exemption, at least 15 percent of the units for rent at rates which are affordable to and restricted to households earning 80 percent or less of the area median income. These affordable units shall be subject to an Extended Use Agreement (EUA) requiring that they be rented in accordance with these rent and income restrictions for a period that is 5 years longer than the tax abatement period (for example, a 10-year tax abatement period would result in a 15-year EUA). The EUA will be recorded against the property and will appear as a lien on the property's title. Compliance with the EUA shall be certified by the owner to the Portland Development Commission on a yearly basis. The EUA will be administered as described in Section 3.104.055.

 - 1.** For the units affordable to households earning 80 percent or less of the area median income under the terms of this Chapter, the units must be rented to households whose incomes do not exceed 80 percent of the area median income upon initial occupancy of the unit by that household. Subsequent monitoring of the incomes of these households is not required until the affordable unit again becomes available for rent, at which time it must be rented to an income qualified household earning 80 percent of the area median income for the remaining term of the property tax exemption, unless another unit has subsequently been rented at an equivalent affordable rate to a qualified household so that the project continues to comply with all provisions of this Section.
 - 2.** Measurement of household income shall be determined using the U.S. Department of Housing and Urban Development's, or its successor agency's, annual household income for the Portland Metropolitan Area for a family of one person (for a studio apartment), two persons (for a one-bedroom apartment), three persons (for a two-bedroom apartment), or four

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persons (for a three-bedroom apartment). Affordability shall be defined as a rental rate, which does not exceed 30 percent of the monthly gross income for a family earning 80 percent or less of the area median income.

- C.** All projects containing housing units available for individual purchase shall receive the property tax exemption only for those for-sale units which are available at an initial purchase price which does not exceed 95 percent of the Federal Housing Administration mortgage maximum for a single unit in the Portland Metropolitan area. The unit must be sold to a household earning no more than 100 percent of the area median income for a family of four as established by the U.S. Department of Housing and Urban Development, or its successor agency, during the year of sale in order to retain its property tax exempt status.
- 1.** In order to qualify for this exemption, such units must be owner-occupied during the term of the exemption. Should any unit become available for sale during the term of the exemption, it must be sold to a household earning no more than 100 percent of the area median income for a family of four as established by the U.S. Department of Housing and Urban Development, or its successor agency, during the year of sale in order to retain its property tax exempt status.
- D.** In addition to the applicable provisions of Sections 3.104.040 B. and C. above, the project must include at least one of the following:
- 1.** Open spaces available to the general public;
 - 2.** Day care facilities;
 - 3.** Permanent dedications for public use;
 - 4.** LEED Silver certification from the US Green Building Council;
 - 5.** 20 percent of the rental units have 3 or more bedrooms;
 - 6.** A total of 25 percent of the rental units are affordable to households at 80 percent MFI; or
 - 7.** Other public benefits approved by the Planning Commission and the City Council. The City Council shall specify the public benefit which is to be included in the proposed project. If the applicant fails to agree to include the public benefit as specified by the Council, the application shall be denied.

3.104.045 Approval Criteria.

An application may be approved if the reviewing body finds:

- A. The construction includes one or more design elements specified in Section 3.104.040;
- B. The construction project will at the time of completion, conform with the provision', of Titles 24, 32, 33, 34, and the Comprehensive Plan; and
- C. The applicant has complied with 3.104.010, 3.104.020, 3.104.030, and 3.104.040.

3.104.050 Review of Application.

(Amended by Ordinance Nos. 178740 and 179487, effective August 10, 2005.)

- A. The Bureau of Planning shall send the Portland Development Commission a copy of the application within 10 days of its submission to the Bureau.
- B. The Portland Development Commission shall thereupon review the application for economic feasibility and economic need and make a recommendation within 60 days thereafter recommend to the Planning Commission that the application be approved, denied, or approved subject to conditions. If the anticipated internal rate of return for the project for the period of the exemption exceeds ten percent, the Portland Development Commission shall recommend that the application be denied.
- C. Within 60 days of the recommendation of the Portland Development Commission, the Planning Commission shall review the application to determine whether the proposed development is consistent with the City's Comprehensive Plan. A recommendation shall thereafter be forwarded to the City Council that the application be approved subject to those conditions necessary to achieve the purposes of this Chapter. The Planning Commission shall specify in its recommendation to the Council the scope and nature of public benefit recommended for the proposed project.
- D. The City Council shall review the application within 180 days of the date of application and approve, deny, or approve subject to conditions. Copies of the application shall be supplied the City Council at least 14 days prior to the Council's review. Final action upon the application shall be in the form of an ordinance or resolution that shall include: the owner's name and address; a description of the multiple-unit housing; the legal description of the property and the Assessor's property account number; and all conditions imposed and upon which approval of the application is based.

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- E.** If the application is denied, a notice of denial shall be sent to the applicant within 10 days following the denial. The notice shall state the reasons for denial.
- F.** If the application is approved, the Bureau of Planning shall on or before the ensuing April 1 file with the Assessor a copy of the ordinance or resolution approving the application.
- G.** If the application is approved, the recipient(s) of the tax exemption must agree to a condition of approval to provide financial information to the Portland Development Commission by July 1 in years 5 and 9 of the tax exemption and two years after the tax exemption has expired. The purpose of this requirement is to provide information to the Planning Commission and City Council for their review of the program described in 3.104.085. The Bureau of Planning will notify tax exemption recipients and the Portland Development Commission 60 days in advance of the reporting requirement. Recipients will submit the required information on the Portland Development Commission's Electronic Operating Statement (EOS) or similar form that might replace the EOS. Portland Development Commission staff will review the statement and prepare a report within 60 days that will then be forwarded to the Bureau of Planning. Bureau of Planning staff will periodically convey these reports to the Planning Commission for use in their review described in 3.104.085.

3.104.055 Rate of Return Analysis.

(Added by Ordinance No. 179487, effective August 10, 2005.)

- A.** The owner shall provide financial data on an annual basis to the Portland Development Commission for each tax year that the exemption is in effect. The financial data shall be provided to the Portland Development Commission no later than 120 days from the close of the owner's fiscal year. The financial data shall include, but is not limited to, full project-based financial statements, Internal Revenue Service tax information, a ten-year operating cash flow statement showing actual cash flow for all prior years and the current year and shall include a to-date calculation of the internal rate of return for the project, and any other information deemed necessary by the Portland Development Commission to calculate or otherwise evaluate the owner's internal rate of return for the project.
- B.** For each year of the exemption, the Portland Development Commission shall prepare an annual analysis of the owner's financial data within 90 days of receipt of all required financial data from the owner. The analysis shall include a to-date calculation of the internal rate of return for the project. The Portland Development Commission shall calculate the internal rate of return by the same method utilized in its initial recommendation for the tax abatement.

- C.** The Portland Development Commission shall advise the owner annually in writing as to whether the financial analysis demonstrates that the projected internal rate of return for the project will exceed ten percent for the entire exemption period and could result in an Accrued Payment Liability ("APL") as calculated pursuant to Section 3.104.055 D.
- D.** The EUA will be terminated at the end of the tax abatement period, if the internal rate of return for the project is less than or equal to 10 percent.
If the 10-year internal rate of return for the project is greater than 10 percent, then:
- 1.** the EUA shall be maintained on a portion or all of the units covered by the EUA as calculated in Section 3.104.055; or
 - 2.** the property owner shall pay an APL that shall be paid as calculated pursuant to this Section.

If as a result of the analysis prepared after the final year of the exemption, the Portland Development Commission has calculated that the internal rate of return during the term of the exemption has exceeded ten percent, the Portland Development Commission shall notify the Bureau of Planning. The Bureau of Planning shall send a notice to the last known address of the owner stating that the owner, at its option, shall either pay the APL to the City in order to have the EUA terminated or, alternatively, be subject to the EUA for the remainder of the EUA as calculated in this Section.

The amount of the APL shall be equal to (1) the net present value, using a 10 percent annual discount rate of the difference between the project's actual annual cash flows over the abatement period and the proforma projected cash flows for the project that would provide a 10 percent internal rate of return for the abatement period or (2) equal to the maximum amount of property taxes that would have been assessed if no exemption had been granted, whichever is less.

If the internal rate of return for the project is calculated to be greater than 10 percent and the project owner elects not to pay the APL, then the EUA will be maintained on the number of units required to reduce net present value, using a 10 percent annual discount rate, of the project's projected market-rate (unrestricted) annual cash flows, during the 5-year EUA period after the end of the tax abatement period, by an amount equal to the APL.

3.104.060 Exemption.

(Amended by Ordinance Nos. 170667 and 179487, effective August 10, 2005.)

- A.** Except as provided for under Subsection 3.104.060 B., multiple-unit housing for which an exemption has been approved under the terms of this Chapter shall be exempt from ad valorem taxation for up to 10 successive years beginning July 1 of the year immediately following the calendar year in which construction is

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completed, determined by that stage in the construction process when, pursuant to ORS 307.330, the improvement would have gone on the tax rolls in the absence of the exemption provided for in this Chapter. The exemption shall not include the land upon which the project is located, nor any improvement(s) not part of the multiple-unit housing except those improvements deemed a public benefit as specified in 3.104.040. The exemption provided in this section shall be in addition to any other exemption provided by law.

- B.** In the case of a structure converted in whole or in part from other uses to multiple family, only the increase in value attributed to the conversion shall be subject to the exemption

3.104.070 Termination.

(Amended by Ordinance Nos. 170667, 178286, 179487 and 179844, effective December 21, 2005.) If, after an application has been approved under this Chapter, the City finds that the work was not completed on or before January 1, 2012; that any provision of this Chapter has not been complied with; including a determination by the Portland Development Commission as provided in Section 3.104.055 that the internal rate of return for the project exceeds ten percent for the exemption period; or that any agreement by the owner or requirement imposed by Council is not being satisfied, the Bureau of Planning may send a notice of proposed termination of the exemption to the owner's last known address.

- A.** The notice shall state the reasons for the proposed termination, and shall require the owner to appear before the City Council at a specified time, not less than 20 days after mailing the notice, to show cause, if any, why the exemption should not be terminated.
- B.** If the owner fails to show cause why the exemption should not be terminated, the City Council shall adopt an ordinance or resolution terminating the exemption. A copy of the ordinance or resolution shall be filed with the County Assessor and a copy sent to the owner at his last known address, within 10 days after its adoption.
- C.** If the owner does not seek review of the termination of an exemption pursuant to ORS 34.010 to 34.100, upon final adjudication, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under ORS 311.205 to 311.235, to provide for the assessment and taxation of any property for which exemption was terminated or modified by the City or by a court, in accordance with the finding of the City or the court as to the assessment year in which the exemption is first to be terminated. The County Assessor shall make such valuation of the property as shall be necessary to permit such correction of the rolls. The owner may appeal any such valuation in the same manner as provided for appeals under ORS 311.207 to 311.213. Where there has been a failure to comply with ORS 307.670,

the property shall become taxable beginning July 1 of the calendar year in which the noncompliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th of the month next following the month of correction. If not paid within such period, the additional taxes shall be delinquent on the date they would normally have become delinquent if timely extended on the roll or rolls in the year or years for which the correction was made.

3.104.080 Extension of Deadline.

(Amended by Ordinance Nos. 170667, 178286 and 179844, effective December 21, 2005.) Notwithstanding the provision of 3.104.070, if the City finds that construction of the multiple-unit housing was not completed by January 1, 2012, due to circumstances beyond the control of the owner, and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, the City may extend the deadline for completion of construction for a period not to exceed 12 consecutive months.

3.104.085 Program Review.

(Added by Ordinance No. 178740, effective October 8, 2004.) The Planning Commission will review the program requirements every five years and make a recommendation to City Council on possible changes to the program. This review will take into consideration the information gathered from tax exemption recipients as required by 3.104.050 G. and any other information the Commission considers relevant.

3.104.090 Implementation.

The Bureau of Planning and the Portland Development Commission shall establish procedures and prepare forms for implementation and administration of this Chapter.

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BULL RUN ADVISORY COMMITTEE

(Added by Ordinance No. 143520;
repealed by Ordinance No. 161853,
effective May 27, 1989.)

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Chapter 3.106

**EXPOSITION-RECREATION
COMMISSION**

(Added by Ordinance No. 143806,
effective June 15, 1977.)

Sections:

- 3.106.010 Commission Action.
- 3.106.020 Filing Copies of Resolutions with City Auditor.
- 3.106.030 Council Review.
- 3.106.040 Exposition - Recreation Commission Action Not Subject to Council Review.
- 3.106.050 Council Initiation of Exposition - Recreation Commission Action.
- 3.106.060 Amendment, Repeal or Alterations of Resolutions by Council.
- 3.106.070 Special Services Personnel as Special Police.

3.106.010 Commission Action.

All action by the Exposition - Recreation Commission shall be by resolution adopted in accordance with the Commission's bylaws.

3.106.020 Filing Copies of Resolutions with City Auditor.

Within 5 days after the passage of any resolution, the Exposition - Recreation Commission shall file a copy of the resolution with the City Auditor, who shall maintain a special record of the Exposition - Recreation Commission's resolutions which shall be accessible to the public under like terms as ordinances of the City of Portland. Except as provided in Section 3.106.040, no resolution of the Exposition - Recreation Commission shall become effective until 5:00 p.m. on the 10th day following the filing of a copy thereof with the City Auditor.

3.106.030 Council Review.

Except as provided in Section 3.106.040, resolutions of the Commission shall not become effective, if, within 10 days after the filing by the Exposition - Recreation Commission of a copy of a resolution with the City Auditor, a member of the City Council files a request with the Auditor for City Council review of the Commission action. Upon receipt of a request for City Council review of Commission action, the City Auditor shall forthwith notify the General Manager of the Exposition - Recreation Commission of the request for review and shall deliver to him a copy of the request for review. The Auditor shall place the resolution on the Council agenda for Council review at the next regular Council meeting. In placing the resolution on the Council calendar, the Auditor shall act consistently with the regular filing deadline for Council calendar items established by this Code; provided, the Council may review any Exposition - Recreation Commission

resolution as a four-fifths item, or under suspension of Council rules. At the time of requesting Council review of Exposition - Recreation Commission action, the Council member shall state the reason such review is necessary and what action the Council should take on the matters.

3.106.040 Exposition - Recreation Commission Action Not Subject to Council Review.

(Amended by Ordinance No. 170667, effective Oct. 23, 1997.) Resolutions of the Exposition - Recreation Commission which pertain solely to the following matters shall be effective upon adoption or at such other time as specified by the Commission.

- A. Scheduling the use of the Exposition - Recreation Commission's buildings and facilities.
- B. Entering into agreements for the use of the Exposition - Recreation Commission's buildings and facilities, including all of the terms and conditions of such agreements, provided such agreements do not transfer operation, management or control of the Memorial Coliseum.
- C. Personnel policy or matters of employment, dismissal or disciplining of employees.
- D. Purchasing supplies, consumables, and services and equipment, in accordance with a budget approved by City Council and in accordance with City Council purchasing procedures.

3.106.050 Council Initiation of Exposition - Recreation Commission Action.

The Council may, by regularly adopted ordinance, take action on behalf of the Commission. A Council member introducing an ordinance pertaining to the Exposition - Recreation Commission on the Council calendar shall, at the time of filing the proposed ordinance with the City Auditor, have a copy of the ordinance delivered to the General Manager of the Exposition - Recreation Commission.

3.106.060 Amendment, Repeal or Alterations of Resolutions by Council.

- A. Contracts and agreements entered into by the Exposition - Recreation Commission or on behalf of the Commission by employees or agents, within the scope of their authority, shall be binding and effective from the times designated in sections 3.106.030 or 3.106.040, whichever is applicable.
- B. The Council may, by regularly adopted ordinance, repeal, amend or alter any resolution adopted by the Exposition - Recreation Commission. Any such repeal, amendment or alteration may be made retroactive or prospective in effect but shall not be construed to invalidate any contract or agreements made in accordance with Subsection A of this Section.

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3.106.070 Special Services Personnel as Special Police.

(Added by Ordinance No. 151083; amended by Ordinance No. 176585, effective July 5, 2002.) Persons appointed as special services personnel shall be special police officers of the City and shall so serve. As special police officers, the special services personnel and the supervisor, shall have authority to issue citations for violations of parking or nonmoving traffic violations occurring on the Memorial Coliseum Complex premises and the Civic Stadium premises, and particularly they shall have authority to issue citations as provided for in Section 16.06.060, and shall have authority to sign citations forms as provided for in Section 16.06.010. In addition to authority to issue citations for parking or nonmoving traffic violations, special services personnel and their supervisors shall have authority to issue citations for violations of 14A.50.030, 14A.50.040 and 14A.50.050 occurring on the Memorial Coliseum Complex premises and the Civic Stadium premises. To the extent of the power and authority granted in this Section, such personnel and their supervisors shall exercise full police power and authority.

Chapter 3.107

WATER QUALITY ADVISORY COMMITTEE

(Added by Ordinance No. 161853,
effective May 27, 1989.)

Sections:

- 3.107.010 Created - Appointments.
- 3.107.020 Duties.
- 3.107.030 Meetings.
- 3.107.040 Chairperson.
- 3.107.050 Rules - Quorum.
- 3.107.060 Staff.

3.107.010 Created - Appointment.

(Amended by Ordinance No. 168939, effective June 14, 1995.) There hereby is created the Water Quality Advisory Committee. The Committee shall consist of nine members, appointed by the Commissioner In Charge of the Bureau of Water Works and confirmed by the Council. Appointments shall be for terms of 3 years except that 4 of the initial appointments shall be for terms of 2 years. When a vacancy occurs, the Commissioner In Charge shall appoint and the Council shall confirm a member to fill a new 3-year term. The Commissioner In Charge of the Bureau of Water Works may remove a member from

the Committee at any time, subject to approval by the Council. The Commissioner In Charge of the Bureau of Water Works shall appoint members to the Committee with expertise or association in areas such as water quality, water treatment, public health policy, the environmental community, civic and business organizations, major industrial or commercial users, neighborhood associations and the public at large of which at least 3 members shall have relevant technical expertise. Committee members may serve a maximum of two 3-year terms, with the 4 appointees serving the initial terms of 2 years to serve a total maximum of 5 years. Within the maximum service limit of 6 years the Council may extend, for a period of less than 3 years, the terms of committee members who were appointed to serve or who have served the balance of a retiring committee member's term. All members shall serve without compensation from the City.

3.107.020 Duties.

The Committee shall act in an advisory capacity to the City Council through the Commissioner In Charge of the Bureau of Water Works as follows:

- A.** The Committee shall have the authority to offer policy advice to the Council and the Bureau of Water Works on issues such as management of the Bull Run Watershed, protection of groundwater quality, and other related water quality issues.
- B.** The Committee shall have the authority to issue periodic reports to the Council and the Bureau of Water Works.
- C.** The Committee shall have the authority to inform the public at large and take public testimony before offering policy advice to the Council and the Bureau of Water Works.

3.107.030 Meetings.

The Committee shall have the authority to conduct public meetings to gather input; the Committee shall provide for notification no less than 5 days prior to the meeting to the general public.

3.107.040 Chairperson.

A chairperson shall be elected annually from among the Committee members by a majority vote of a quorum. The Chairperson shall serve for a period of 1 year. A vacancy in the Chairperson's position shall be filled from among Committee members by majority vote of a quorum as soon as practical after the vacancy occurs.

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3.107.050 Rules - Quorum.

The Committee shall establish its own rules and provide procedures for consideration or action on all matters before the Committee. Such rules and procedures may be adopted and amended only upon an affirmative vote of five or more Committee members. Election of officers and regular business shall be passed upon by the majority of a quorum. Not less than five members shall constitute a quorum. Each member shall be entitled to one vote. Provisions shall be made for public participation in Committee meetings.

3.107.060 Staff.

The Committee shall be staffed by personnel from the Bureau of Water Works and such additional staff or consultants as may be deemed necessary by the City Council for the committee to fulfill its responsibilities.

Chapter 3.110

BUREAU OF HYDROELECTRIC POWER

(Added by Ordinance No. 147822,
effective July 9, 1979.)

Sections:

- 3.110.010 Creation and Function.
- 3.110.020 Jurisdiction.

3.110.010 Creation and Function.

(Amended by Ordinance No. 161850, effective May 27, 1989.) There is hereby established a Bureau of Hydroelectric Power. The Bureau shall be administered by a Bureau Manager and shall have such other employees as the Council may provide. The Bureau shall supervise the construction and administer the operation of hydroelectric generating facilities owned by the City. It shall perform the duties and responsibilities required by any Federal Energy Regulatory Commission license and any agreements for the disposition of energy. The Bureau of Hydroelectric Power shall report to the Administrator of the Bureau of Water Works.

3.110.020 Jurisdiction.

The Bureau shall supervise the construction and administer the operation of the City owned hydroelectric power generating facilities.

Chapter 3.111

**OFFICE OF
SUSTAINABLE DEVELOPMENT**

(Added by Ordinance 157992,
effective Feb. 18, 1986.)

Sections:

- 3.111.010 Creation.
- 3.111.020 Purpose and Function.
- 3.111.030 Solar Access Permit Policy.
- 3.111.040 Solar Access Permit Purpose.
- 3.111.050 Definitions.
- 3.111.060 Affected Zones.
- 3.111.070 Application for a Solar Access Permit.
- 3.111.080 Standards of Approval.
- 3.111.090 Procedure.
- 3.111.100 Issuance and Recordation.
- 3.111.110 Obligation Created by a Solar Access Permit: Assignment of Costs.
- 3.111.120 Enforcement.
- 3.111.130 Termination of a Solar Access Permit.
- 3.111.140 Reapplication for a Solar Access Permit.

3.111.010 Creation.

(Amended by Ordinance No. 174830, effective September 22, 2000.) There hereby is created an Office of Sustainable Development.

3.111.020 Purpose and Function.

(Amended by Ordinance Nos. 165281 and 174830, effective September 22, 2000.) The Office of Sustainable Development is created to assure proper City support for the City's energy policy, the Sustainable Portland Commission, and solid waste and recycling programs, and shall:

- A. Direct and evaluate energy policy and global warming action plan implementation;
- B. Administer and monitor direct City government energy efficiency activities;
- C. Review City policies and programs for consistency with the policy;
- D. Make recommendations to the Council on the policies and programs;

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- E.** Create solar access permit forms and administer the solar access permit process as provided for in Sections 3.111.030 to 3.111.140;
- F.** Provide support for the activities of the Sustainable Portland Commission.
- G.** Accomplish other functions as required by the Commissioner In Charge.
- H.** Administer and monitor programs in support of sustainable development principles; and
- I.** Administer the City's solid waste and recycling programs.

3.111.030 Solar Access Permit Policy.

The City Council finds that the use of renewable resources, such as solar energy, is in the public interest and advances the general welfare, and that solar energy cannot be properly used if shade from vegetation on abutting lots is not controlled.

3.111.040 Solar Access Permit Purpose.

The purpose of the following Sections is to enable property owners with solar energy systems to preserve solar access to their systems by restricting the shade cast by certain types of vegetation on neighboring properties. The mechanism used to protect solar access shall be known as a solar access permit.

3.111.050 Definitions.

(Amended by Ordinance No. 174830, effective September 22, 2000.)

- A. Commission.** The Sustainable Portland Commission as authorized in Chapter 3.112.
- B. Director.** The Director of the Office of Sustainable Development or his or her designate.
- C. Exempt vegetation.** The following vegetation shall be exempt from any solar access permit height restrictions.
 - 1.** The mature breadth and height of vegetation listed on a solar access permit as existing on the date the application for the solar access permit is filed with the City.
 - 2.** All trees on the City's approved list of solar friendly trees.

- D. Owner.** The deedholder of real property or the contract purchaser of real property of record as shown in the last available complete assessment roll in the office of the County Assessor; a person with a written power of attorney; a person with other specific written and notarized authorization to sign and file a solar access permit application. Owner shall include a deedholder or contract purchaser whose name does not appear in the last available complete assessment roll but who presents a deed or contract of sale showing date, book and page of recording to the Energy Office.
- E. Solar access permit.** A document that describes the maximum permitted height of nonexempt vegetation on properties to which the permit applies to protect solar access on the property of the permit applicant, to the extent authorized by the City. A solar access permit shall include, but is not limited to, the legal description of the properties benefited and restricted by the permit, a copy of the sunchart, solar access permit height limitations, and information listed in Section 3.111.070 B 5, 6 and 7.
- F. Solar access permit height limitations.** A series of contour lines rising in 5 foot increments at an angle to the south not less than 24 degrees from the horizon and extending at an angle not greater than 54 degrees east and west of true south, beginning at the bottom edge of a solar energy system for which a solar access permit is requested. For each affected property the height limitation at the northern lot line shall be no less than the height of shade from buildings allowed at the northern lot line by the solar setback for buildings required in Title 33.
- G. Solar energy system.** A device or combination of devices or elements that rely on direct sunlight as an energy source, including any substance or device that collects sunlight for the following uses: heating or cooling of a structure or building; heating or pumping of water; or, generating electricity. Examples of a solar energy system include the south wall and a solar hot water system. A solar energy system may be used for purposes in addition to collecting solar energy including but not limited to serving as a structural member or part of a roof of a building or structure and serving as a window or wall.
- H. Solar friendly trees.** Trees identified as not significantly blocking solar radiation in the winter months. The City maintains a list of solar friendly trees, according to provisions specified in Sections 3.26.090 and 3.89.030.
- I. Solar heating hours.** The hours and dates during which solar access is protected under a solar access permit, not to exceed those hours and dates when the sun is lower than 24 degrees altitude or greater than 54 degrees east or west of true south.

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- J. South wall.** Any wall of a dwelling oriented no more than 45 degrees from due south.
- K. Sunchart.** A photograph or photographs, taken in accordance with guidelines issued by the director, which plot the position of the sun during solar heating hours. The sunchart shall contain at a minimum the southern skyline as seen through a grid which plots solar altitude for a 45-degree northern latitude in 10-degree increments and solar azimuth measured from true south in 15-degree increments. If the solar energy system is less than 20 feet wide, a minimum of one sunchart shall be taken from the center of the bottom edge of the system. If the solar energy system is 20 feet or wider, a minimum of two suncharts shall be taken, one from each end of the bottom edge of the system. A sunchart is the primary document for determining when a nonexempt tree has violated the terms of a solar access permit.
- L. True south.** Twenty-one degrees east of magnetic south.

3.111.060 Affected Zones.

An owner or property in a FF, R20, R10, R7, R5, R2.5, C4 or C5 zone may apply for, and be subject to, a solar access permit, except that a solar access permit may not be obtained for any property in these zones that is affected by or exempt from the solar envelope requirements contained in Title 33 and 34 of this Code.

3.111.070 Applications for a Solar Access Permit.

- A. Applicant.** An owner may submit an application for a solar access permit to protect solar access to a new or existing solar energy system located on the owner's real property.
- B. Contents of application.** An application for a solar access permit shall contain the following information:
 - 1.** A legal description of the lot on which the solar energy system is or will be situated.
 - 2.** Evidence that a solar energy system is installed or a written commitment to install the proposed energy system within 1 year of the effective date of the permit.
 - 3.** A scaled drawing of the solar energy system showing the energy system's dimensions.
 - 4.** A sunchart.

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- 5.** A plan of the applicant's property, drawn to scale, accurately showing the location of the following:

 - a.** Existing vegetation; and
 - b.** The solar energy system's height above grade, distance from property lines and orientation from true south.
 - 6.** The solar heating hours for which protection is sought.
 - 7.** A list of the lots, all or a portion of which, are within 150 feet as measured within 54 degrees east or west of true south of the solar energy system, including unbuildable areas, and the following information for each such lot:

 - a.** The solar factor determined in accordance with Section 33.530.050 D 2.;
 - b.** The legal description;
 - c.** The owner of record and his or her address; and,
 - d.** For each lot with a solar factor of 17 or greater, or in the case of a lot located in an R2.5 zone with a solar factor of 44 or greater, all existing vegetation.
 - 8.** For each affected lot, a description of the requested solar access permit height limitations.
 - 9.** A statement that the applicant tried and failed to reach a written and recorded agreement that would protect solar access similar to that which would be protected by a solar access permit with the property owners who would be affected by a solar access permit.
 - 10.** A statement that all weatherization measures shown by a certified energy audit as specified in Title 33 to have a simple payback in less time than the solar energy system, have been completed on the structure.
- C.** Fee. The fee to cover the costs of administration for the solar access permit will be established by the Energy Commission.
- D.** Filing; incomplete application.

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1. An applicant shall file a written application for a solar access permit with the Energy Office on forms provided for this purpose. The applicant shall complete all portions of the forms. The Energy Office may require the applicant to submit drawings, topographic maps, photographs or other material essential for an understanding of the proposed permit.
2. An application shall not be deemed complete until the applicant has submitted all information required by the application forms and has paid the application fee.

3.111.080 Standards of Approval.

An application for a solar access permit shall be approved if the applicant satisfies each of the following:

- A. Application complete and accurate. The application is complete and the information contained in the application is accurate.
- B. Neighbor agreement. The applicant has tried and failed to reach written and recorded agreements with the property owners who would be affected by a solar access permit. Such agreements would protect quantity and quality for solar access similar to that protected by solar access permit and at a cost no greater than the City's application fee.
- C. On-site vegetation. No vegetation on the applicant's property is shading the solar energy system during the solar heating hours for which protection is requested except vegetation which is listed on the City's approved solar friendly tree list.
- D. Cost-effective weatherization. All weatherization measures shown by certified energy audit as specified in Title 33 to have a simple payback in less time than the solar energy system shall have been completed on the structure.

3.111.090 Procedure.

- A. Preliminary review.
 1. The director shall review an application for a solar access permit. If the director determines the application is complete, accurate and satisfies the standards contained in Section 3.111.080, the director shall follow the procedure described in Subsections B - D.

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2. If the director determines the application is not complete and accurate, the director shall notify the applicant in writing of the deficiencies and inaccuracies. On notice from the director that an application form is incomplete, the applicant shall provide the missing information and correct the inaccuracies before the application is processed further. If the applicant fails to submit the missing information or correct the inaccuracies within 30 days of the director's request and offers no good reason for doing so, the director shall deny the application.

B. Notice.

1. The director shall inform the City Auditor of the application and of the director's preliminary determination that the application satisfies the standards set forth in 3.111.090. The City Auditor shall compile a list of names and addresses of property owners within the affected area. The affected area is all real property identified in Section 3.111.070 B 7.
2. The City Auditor shall send notice of the permit application to the property owners in the affected area. The notice shall include:
 - a. Information required by Section 3.111.070 B 4. - 10.;
 - b. A description of the rights and responsibilities of owners of property subject to a solar access permit;
 - c. A statement that the director finds the application to be complete, accurate and in compliance with the standards set forth in Section 3.111.090, and that the director intends to approve the permit unless an affected party requests a hearing within 21 days of the date the notice was mailed;
 - d. A form to submit to the director to request a hearing; and
 - e. A telephone number to call for further information regarding the application.

C. Request for hearing.

1. Within 21 days of the date the notice was mailed, an affected party may request a hearing before the Energy Commission. An affected party is a person entitled to notice under Section 3.111.090 B 1, or his or her representative, who challenges the accuracy of the information contained in the application or contends the application fails to satisfy one or more of the standards contained in Section 3.111.080. A request for a hearing

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must be made in writing and must be filed with the Director within the 21-day period prescribed by this action. A request for a hearing must identify clearly the inaccuracies or deficiencies in the application. Failure to comply with all of these requirements will result in final review and approval of the application without a hearing.

2. If the director receives a timely request for a hearing, the director shall first request the applicant, the person(s) requesting a hearing and a representative of the Energy Office to attend a conference to informally resolve any objections to the application. The conference shall be held within 10 days of the date of receipt of a request for a hearing. The director shall send written notice of the conference to the applicant and the person requesting a hearing.
3. If the person(s) requesting a hearing still has objections to the application at the conclusion of the conference, a hearing shall be scheduled in accordance with Section 3.111.090 D. The hearing shall be held no later than 21 days after the date of the conference.
4. If the conference resolves any objections to the application or if no timely request for a hearing is received, the director shall approve the application. Such approval shall be granted in writing within 10 days of the date of the conference or within 10 days after the last date to request a hearing. The City Auditor shall mail a copy of the director's decision to all property owners in the affected area.

D. Notice and hearing.

1. The City Auditor shall send notice of the date, time and place of the hearing to all property owners within the affected area at least 14 days prior to the scheduled hearing date.
2. The Commission shall conduct a hearing according to the procedures established under Code Section 33.112.020 (7).
3. The Energy Commission shall decide whether or not the information contained in the application is complete and whether or not the application complies with the standards set forth in Section 3.111.080.
4. The Energy Commission shall issue a written decision approving or denying the permit application within 10 days after the date of the hearing. The decision shall explain the basis for approving or denying the permit application.

5. The City Auditor shall mail a copy of the Energy Commission's decision to all property owners in the affected area.

3.111.100 Issuance and Recordation.

- A. On the approval of an application, the director shall issue a solar access permit protecting the solar access described in the application.
- B. On receiving such a permit, the City shall, at the expense of the applicant:
 1. Record the solar access permit with the deeds to the applicant's lot and each neighboring lot identified in the application; and
 2. Record a copy of the approved application with the County recorder.
- C. The form of the solar access permit shall be as prescribed by the director and shall contain the information identified in Section 3.111.070 B 1-8.

3.111.110 Obligation Created by a Solar Access Permit: Assignment of Costs.

An owner of property restricted by solar access permit shall not permit nonexempt vegetation on his or her property to shade a solar energy system during protected solar heating hours. Each property owner affected by a solar access permit shall pay all costs for keeping the nonexempt vegetation trimmed and in compliance with the solar access permit.

3.111.120 Enforcement.

(Amended by Ordinance No. 176955, effective October 9, 2002.)

- A. A solar access permittee may request the Bureau of Development Services to enforce the provisions of the solar access permit by providing the following information to the Bureau:
 1. A copy of the solar access permit;
 2. A current sunchart documenting nonexempt vegetation is shading the solar energy system during protected solar heating hours;
 3. The legal description of the lot on which the alleged nonexempt vegetation is situated, the address of the property owner, and a scaled plot plan showing the nonexempt vegetation on the lot;
 4. Evidence that the solar energy system still exists and is operating; and

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5. A current sunchart and any other evidence necessary to show that nonexempt vegetation on the permittee's property is not shading the energy system during protected solar heating hours.
- B. Procedure. The Bureau of Development Services may enforce a valid solar access permit by instituting an action in accordance with Section 3.30.015 of this Code.
- C. Notwithstanding Subsections A. and B., the permittee may institute a private action in his or her own name to enforce the provision of a valid recorded solar access permit.

3.111.130 Termination of a Solar Access Permit.

- A. Basis for termination. The director shall terminate a solar access permit with respect to all or part of the neighboring lots restricted by the permit if a petition for termination is submitted by the permittee or the permittee's successor in interest, or the solar energy system is not installed within 12 months of the date of issuance of the permit.
- B. Notice. The director shall send the permittee a notice of termination. The notice shall contain:
 1. A brief description of the permit and the lots affected by the permit;
 2. A legal description of the lot(s) for which the permit is to be terminated; and
 3. If the termination is due to the permittee's failure to install a solar energy system within 12 months of the date of issuance of the permit, a statement that the permittee has a right to demonstrate to the director that the system has been substantially completed or installed.
- C. Recordation.
 1. Except as provided in Subsection 2. of this Section, within 30 days after the director mails the notice of termination, the director shall record a copy of the notice with the County clerk who shall record the termination of the solar access permit with the deeds to the permittee's lot and each neighboring lot identified in the permit.

2. If the permittee demonstrates that the solar energy system has been substantially completed or installed, or will be substantially completed or installed within 30 days of the date of the notice of termination, the director shall not terminate the solar access permit.

3.111.140 Reapplication for a Solar Access Permit.

- A. Except as provided in Subsection 2. of this Section, a permittee whose solar access permit has been terminated or an applicant whose application for a solar access permit has been denied may reapply for a solar access permit.
- B. A permittee whose permit has been terminated because the solar energy system protected by the permit has not been installed within 1 year of the effective date of the permit, may not reapply more than twice for a new permit prior to installation of the solar energy system.

Chapter 3.112

**SUSTAINABLE DEVELOPMENT
COMMISSION**

(New Chapter substituted by
Ordinance No. 167239,
effective Dec. 29, 1993.)

Sections:

- | | |
|-----------|--|
| 3.112.010 | Sustainable Development Commission; Mission. |
| 3.112.020 | Powers and Duties. |
| 3.112.030 | Membership. |
| 3.112.040 | Officers. |

3.112.010 Sustainable Development Commission; Mission.

(Amended by Ordinance Nos. 168886 and 176207, effective February 15, 2002.) A sustainable community is one in which economic, ecological, and social well-being are integrated to ensure all live well, within nature's means. The mission of the Sustainable Development Commission is to develop and advocate for programs, policies, and actions by government, citizens, and businesses leading to sustainable communities in the Portland metropolitan area, including those that:

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- A.** Support a diverse and vibrant economy;
- B.** Promote an equitable distribution of resources;
- C.** Protect and restore the integrity of the natural systems that support life, including air, water, and land;
- D.** Preserve the diversity of plant and animal life; and
- E.** Reduce human impacts on local and worldwide ecosystems.

3.112.020 Powers and Duties.

(Amended by Ordinance Nos. 168886, 176207 and 179680 effective October 19, 2005.)
The Commission is not authorized to modify, limit or alter any permit or regulatory process of any City or County office or bureau. Subject to that limitation, in order to carry out its mission, the Commission is authorized to:

- A.** Work closely with the Jurisdiction on respective Sustainable Government Initiatives including review and recommendations on Sustainability Plans;
- B.** Advise the Jurisdictions on the creation, maintenance and marketing of a “Sustainable Community Report Card” to inform residents and businesses about how we are doing as a community related to a specific set of sustainability indicators;
- C.** Help enhance sustainable economic development through public forums, media outreach and public speaking opportunities;
- D.** Advise and make recommendations to the Portland City Council and the Multnomah County Board of Commissioners on policies and programs that create sustainable communities;
- E.** Articulate and promote long-range goals and objectives for developing and achieving sustainable communities;
- F.** Promote sustainable communities among citizens, businesses, governmental agencies and community-based organizations;
- G.** Develop opportunities for all citizens to learn about values, principles, and practices that will bring about sustainable communities;
- H.** Assist City and County personnel in the coordination of policies and actions creating sustainable communities.

- I.** Conduct public meetings as necessary;
- J.** Meet at least six times a year and keep minutes of its proceedings;
- K.** Provide an annual report to the governing bodies on the Commission's activities, achievements and plans for the coming year; and
- L.** Adopt rules or bylaws as necessary for its operation and undertake any other activities necessary to the accomplishment of its mission within the terms of this Section.

3.112.030 Membership.

(Amended by Ordinance Nos. 168886, 176207 and 179680 effective October 19, 2005.) The Commission shall consist of eleven members as provided in the Intergovernmental Agreement entered into by the City of Portland and Multnomah County. Following recommendation by the Commissioner-in-Charge of the Office of Sustainable Development, six of the commission members shall be appointed by the Mayor, subject to confirmation by the City Council. Five shall be appointed by Multnomah County. All appointments to the Commission shall be for terms of two years. Members shall serve without compensation. However, reasonable expenses for carrying out the work of the Commission may be reimbursed by the City. Absence from four consecutive Commission meetings shall constitute cause for removal.

3.112.040 Officers.

(Amended by Ordinance Nos. 176207 and 179680, effective October 19, 2005.) Two co-chairs shall be appointed by the Jurisdictions. One co-chair shall be a City appointee, and one shall be a County appointee. All Commission officers shall serve for two years. No officer may be elected for more than two consecutive terms.

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Chapter 3.114

**OFFICE OF CABLE
COMMUNICATIONS
AND FRANCHISE MANAGEMENT**

(Added by Ordinance No. 149053; amended by
Ordinance Nos. 151338 and 160424,
effective Feb. 22, 1988.)

Sections:

- 3.114.010 Creation.
- 3.114.020 Functions.
- 3.114.030 Jurisdiction.
- 3.114.040 Policy.

3.114.010 Creation.

There is hereby established an Office of Cable Communications and Franchise Management. The Office shall be administered by a Director and shall have such other employees as the Council may provide.

3.114.020 Functions.

- A.** The Office shall be responsible for supervising and coordinating all franchising processes engaged in by the City, for monitoring the performance of all franchisees for franchise compliance and for performing all other necessary work relating to franchises in the City.
- B.** The Office shall be responsible for promoting the orderly development of City-owned cable communication systems, for providing staff support needed by the Portland Cable Communications Regulatory Commission and for performing all other necessary work related to cable communications in the City.
- C.** The Office shall be responsible for overseeing franchise and utility audits and revenues in coordination with the City Auditor's Office, the Office of Fiscal Administration and other City agencies and bureaus.

3.114.030 Jurisdiction.

- A.** The Office shall have jurisdiction over all franchisees. The Office shall have jurisdiction over all public or private utilities or other entities seeking similar rights to use City rights-of-way.

- B.** The Office shall have jurisdiction over all cable communications matters affecting the City of Portland.

3.114.040 Policy.

In order to establish and ensure a stable, predictable basis for long-term relations, it is the policy of the City of Portland that public or private utilities and other entities seeking similar rights to utilize City rights-of-way should be subject to franchise agreements with the City.

Chapter 3.115

**CABLE COMMUNICATIONS
REGULATORY COMMISSION**

(Added by Ordinance No. 151338,
effective April 1, 1981.)

Sections:

3.115.010	Definitions.
3.115.020	Commissions Created.
3.115.030	General Power and Duties.
3.115.040	Monitoring.
3.115.050	Reviewing Reports.
3.115.060	Interconnection.
3.115.070	Complaints.
3.115.080	Evaluations.
3.115.090	Rate Regulation.
3.115.095	Rate Regulation Criteria.
3.115.100	System Development.
3.115.110	Council Action.
3.115.120	Appeal.
3.115.130	Franchises.
3.115.140	Portland Cable Access.
3.115.150	Annual Report.
3.115.160	Annexations.
3.115.170	Cable Television Consumer Protection.
3.115.175	Customer Service and Television Responsiveness.
3.115.180	Service and Repair Calls.
3.115.185	Disconnection.
3.115.190	Credits Upon Outage.

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- 3.115.195 Itemized Billing.
- 3.115.200 Information to Subscribers.
- 3.115.205 Nondiscrimination.

3.115.010 Definitions.

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

- A. “Commission”** means the Portland Cable Communications Regulatory Commission.
- B. “Franchise”** means a cable communications system franchise.
- C. “Grantee”** means the grantee of a cable communications system franchise within the City of Portland.
- D. “System”** means a franchised cable communications system.
- E. (Amended by Ordinance No. 152558, effective Nov. 25, 1981.) “Corporation”** means Portland Cable Access.

3.115.020 Commission Created.

There hereby is created the Portland Cable Communications Regulatory Commission. The Commission shall consist of seven members, including a Chairman, appointed by the Commissioner In Charge of the Office of Cable Communications and confirmed by the Council. Appointments shall be for terms of 4 years except that 3 of the initial appointments shall be for terms of 2 years. The Chairman’s initial appointment shall be to one of the 4-year terms. When an interim vacancy occurs, the Commissioner In Charge shall appoint and the Council shall confirm a member to fill the balance of the unexpired term. The Commissioner In Charge of the Office of Cable Communications may remove a member from the Commission at any time, subject to approval by the Council. All members shall be residents of the City. The Commissioner In Charge shall appoint members to the Commission so as to provide for an appropriate level of expertise taking into account the powers and duties of the Commission and in making appointments shall take into consideration the desirability of representation, without limitation, of racial and ethnic minorities, women, different geographic areas, and different socioeconomic groups. All members shall serve without compensation from the City or from the grantee of any franchise. No member may have an ownership interest in the grantee of a franchise.

3.115.030 General Powers and Duties.

- A.** All powers granted to the Commission by this Chapter shall be subject to the provisions of grantees' franchises. In the event of any conflict between this Chapter and a grantee's franchise, the provisions of the franchise shall prevail.
- B.** Except as expressly provided otherwise in this Chapter, and subject to appeal as set out in this Chapter, the Commission shall exercise all cable communications system regulatory powers of the City over grantees operating within the City, whether such powers are granted to the City by law or under grantees' franchises. The Commission shall act in an advisory capacity to the City Council through the Commissioner In Charge of the Office of Cable Communications on all other matters pertaining to cable communications franchises or proposed franchises. The Commission shall adopt such regulations as it deems necessary or desirable in order to exercise its powers and carry out its duties under this Chapter, provided that such regulations shall not become effective until approved by the Council.

3.115.040 Monitoring.

The Commission shall monitor the performance of all grantees to determine whether the grantees are complying with the provisions of their franchises. In carrying out its monitoring duties, and subject to appeal as set out in this Chapter, the Commission shall cause to be made such reasonable inspections, tests, and demonstrations of grantees, systems as the Commission deems required in order to protect the public service, health or welfare. The Commission shall make recommendations to the Council regarding actions it deems appropriate for franchise violations it discovers.

3.115.050 Reviewing Reports.

The Commission shall review and as appropriate audit all reports filed by grantees with the City. Subject to appeal as set out in this Chapter, the Commission may require any grantee or grantees to prepare and file additional reports as necessary or desirable to carry out its duties under this Chapter. After consultation with affected grantees, the Commission may adopt regulations establishing the form of reports to be filed with the City; the place at which filings are to be made; and criteria and procedures for the protection of material contained in reports that is not open for public disclosure. The regulations shall be subject to the provisions of City Charter Section 10-107 and shall not become effective until approved by the Council.

3.115.060 Interconnection.

The Commission, as necessary or desirable, shall coordinate the interconnection of the systems of grantees with each other, with systems of the City and with systems outside the City but within the Metropolitan Service District, provided, however, that the

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Commission may not require any grantee to interconnect to a non-contiguous system without Council approval. The Commission may cooperate with other governmental units in the supervision of the interconnection systems.

3.115.070 Complaints.

The Commission may receive and investigate any unresolved complaint about a grantee's service filed with the Commission or referred to the Commission by the Commissioner In Charge of the Office of Cable Communications. After consultation with affected grantees, the Commission may adopt regulations establishing methods and procedures to ensure that complainants have recourse to a satisfactory hearing and method for settling complaints. The regulations shall not become effective until approved by the Council.

3.115.080 Evaluations.

The Commission shall evaluate, pursuant to such criteria and standards as the Commission previously shall have adopted, each grantee's system at least every 3 years and, based on the evaluation, issue a report to the Council through the Commissioner In Charge of the Office of Cable Communications containing any recommendations for action by the City.

3.115.090 Rate Regulation.

(Amended by Ordinance Nos. 155256 and 156712, effective Oct. 25, 1984.)

- A.** All grantee rates and charges shall be subject to regulation by the City in a manner to be determined from time to time by the City Council by ordinance. The Council may establish whatever rate regulation method it deems reasonable, including without limitation a utility approach that allows automatic increases within a predefined range, an approach that regulates service quality but not rates, or any combination thereof. The rate regulation method may include without limitation rules governing allocation of depreciation; calculation, crediting, and treatment of tax benefits; allowing funds borrowed to supplement cash flow necessitated by nonutilization of any tax benefits or a buyout of partnership equities; and disallowing consideration of interest expense in excess of interest rates actually incurred and paid by the grantee. Increases in rates for entertainment and access services may be made no more often than annually by a grantee by filing the revised schedule of rates with the City Auditor and by providing notice thereof to its subscribers not later than 15 days prior to such filing. The notice to subscribers shall be in writing and shall state the amount of each increase proposed in the schedule of rates. The Commission, within 30 days of such filing, shall hold a public hearing on whether to require by resolution review of the proposed increases prior to their going into effect. Each rate increase shall be in effect on the 31st day after such filing unless the Commission or the City Council by resolution shall require prior review of such rate increase, in which case such rate increase shall not be effective unless the Commission after public hearing and within 60 days of passage of the resolution shall approve

the rate increase as filed or as modified by the Commission. Any decision of the Commission on a rate increase filing or any failure of the Commission to act on a rate increase filing within 60 days of passage of a resolution requiring prior review may be appealed by the grantee to the City Council. The approval of any rate increase by the Commission shall not be effective until 10 days after such approval, and if after Commission approval but prior to the effective date thereof, two members of the Council so request in writing to the City Auditor, the proposed increase shall be referred to the Council for review. The Council must either approve by ordinance, modify by ordinance, or disapprove the rate increase within 45 days after a review request is filed with the City Auditor or after an appeal is filed by the grantee. Any failure by the Council to act on a rate increase within the 45-day period shall constitute disapproval of the rate increase.

- B.** The requirement of written notice to subscribers set out in Subsection (1) shall not apply to any grantee with less than 250 subscribers.
- C.** In the event federal law and regulations have preempted local government regulation of rates charged for specific cable television services or classes of services, then the filing and written notification requirements of Subsection (1) shall be applicable to rate increases for those services for purposes of informing subscribers and the public of the increases, but the other provisions of Subsection (1) shall not be applicable thereto. The notification to subscribers about preempted rates shall be sufficient if given any time before the rate increases become effective.
- D.** If so instructed by the City Council the Commission shall prepare and recommend regulations governing rates of grantees. The recommendation shall include regulations to prevent grantee's use of entertainment system revenues to subsidize institutional system construction and operation. On approval by the City Council of regulations governing rates of grantees, the Commission shall exercise the powers and perform the duties assigned to it by the regulations.

3.115.095 Rate Regulation Criteria.

(Added by Ordinance No. 155624, effective Feb. 23, 1984.) In the event of a rate increase review pursuant to Section 3.115.090 by the Commission or the City Council, the Commission and City Council shall base their decisions to approve, disapprove or modify the proposed rate increase on the following criteria:

- A.** Whether the proposed rate will provide the grantee a reasonable rate of return;
- B.** Whether the grantee is in substantial compliance with its franchise and other legal obligations to the City; and
- C.** Whether the grantee substantially meets the following service requirements:

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1. Provides efficient service.
2. Receives subscriber complaints on a 24-hour basis or on such reduced basis as is economically reasonable taking into consideration the size of the grantee;
3. Makes repairs promptly; and
4. Interrupts service only for good cause and for the shortest time possible.

3.115.100 System Development.

The Commission shall use its regulatory powers and make recommendations to the City Council in order to promote and guide the development of systems in the City in a manner that will be in the public interest, with particular emphasis on nonentertainment cable communications services for home and institutions and on new and innovative services, but subject to the limitation that entertainment system revenues shall not be used to subsidize institutional system construction and operation.

3.115.110 Council Action.

Prior to any proposed City Council action regarding any system, systems, grantee or grantees, the Commission shall consider and make its recommendation on the action, whether at the proposal of the City Council, a grantee or any other person, or on the Commission's own motion. The Commission shall make a recommendation to the City Council on the proposed action within 60 days after receipt of the proposal. The City Council shall not take any such action until it has received the Commission's recommendation. Notwithstanding any other provision of this Section, the Council may waive prior Commission consideration and recommendation on any proposed City Council action and may proceed to consider and take such action.

3.115.120 Appeal.

Any grantee may appeal to the City Council any action of the Commission regarding the grantee by filing a written notice of appeal in the office of the City Auditor not more than 20 calendar days after the date of final action by the Commission. The Commissioner In Charge of the Office of Cable Communications or any two other Commissioners may cause any action of the Commission to be brought before the City Council on appeal by filing a written notice of appeal in the office of the City Auditor not more than 20 calendar days after the date of final action by the Commission. Any person directly affected by an action of the Commission may appeal to the City Council, provided the person has appeared before the Commission in person or in writing regarding the action, by filing a written notice of appeal in the office of the City Auditor not more than 20 calendar days after the date of final action by the Commission. The notice of appeal shall state the action taken by the Commission, the reasons why the action was improper, and

the relief requested. The scope of the appeal shall be limited to consideration of the action, reasons, and relief set out in the notice of appeal. The appealed action shall be stayed pending a decision of the City Council.

3.115.130 Franchises.

The Commission may make recommendations to the Council through the Commissioner In Charge of the Office of Cable Communications regarding the renewal, termination, and forfeiture of franchises; the exercise of buyout authority; and the transfer of system ownership and control.

3.115.140 Portland Cable Access.

(Amended by Ordinance Nos. 152558; and 162523, effective Nov. 16, 1989.)

- A.** Each City Council member, shall appoint two directors of the corporation. In appointing directors, the Council member shall give consideration to representation on the board of directors of the fields of arts, education, public access, government, and community information; and of racial and ethnic minorities, non-English speaking people, women, and low-income people. In addition, the Commission shall have the authority to appoint from its membership one non-voting Director, and the operators of the two cable communications systems in the City of Portland passing the greatest number of homes shall each have the authority to designate one non-voting Director. The Commission shall monitor, report annually, and make recommendations to the Council on the activities of the corporation, including review of the budget and financial status of the corporation and recommendations regarding the granting of funds by the City to the corporation. The Commission's recommendations regarding the granting of funds by the City to the corporation shall include a recommendation that at least 40 percent of the franchise fees received by the City be granted to the corporation together with description of the work to be performed by the corporation in consideration for the grant and the time period that the grant should cover. It is the Council's intention to appropriate at least 40 percent of the franchise fees for grants to the corporation and the balance for funding the Office of Cable Communications.
- B.** The corporation may exercise regulatory control, and management powers over the channels to be controlled by the corporation under the Cablesystems Pacific franchise to the full extent authorized by the franchise, provided, however, that the corporation shall not transmit or permit to be transmitted over any channel over which it has programming control any material that is obscene or indecent. For purposes of this Subsection, material shall be deemed obscene or indecent if:

 - 1.** It depicts or describes in a patently offensive manner sadomasochistic abuse or sexual conduct;

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2. The average person applying contemporary state standards would find the material, taken as whole, appeals to the prurient interest in sex; and
3. Taken as a whole, it lacks serious literary, artistic, political, or scientific value. Also for purposes of this Subsection, the terms “sodomasochistic abuse” and “sexual conduct” shall have the meanings assigned to them by ORS 167.060, 1971 Oregon Laws Chapter 743, Section 255.

3.115.150 Annual Report.

The Commission shall prepare an annual report at the conclusion of each calendar year for inclusion in the budget request of the Office of Cable Communications. The report shall cover activities of the Commission and corporation during the past calendar year; planned activities of the Commission and corporation during the upcoming calendar year; the receipt and use of franchise fees; the general performance of grantees; the development and use of systems within the City; anticipated new services on the systems within the City; and recommendations of the Commission or the corporation; and such other matters as the Commission may deem appropriate.

3.115.160 Annexations.

(Added by Ordinance No. 153956, effective Nov. 4, 1982)

- A. In the event the City annexes territory for which another public body having jurisdiction to issue a franchise has issued a franchise, then the grantee shall have the same rights and obligations under the franchise after annexation that it had before annexation, except that:
 1. After annexation the City shall have all rights under the franchise of the issuing public body as to system construction and operation within the annexed area, including without limitation all rights to regulate, to collect and use franchise fees, and to insurance and other protection; and
 2. After annexation the grantee’s obligations under the franchise as to system construction and operation within the annexed area shall be to the City rather than to the issuing public body.
- B. Nothing in this Section shall be deemed to modify the rights or obligations of the City or grantees under other franchises.

3.115.175 Cable Television Consumer Protection.

(Added by Ordinance No. 163442, effective Sept. 5, 1990.) The following policies and standards apply to all cable television companies (grantees) which are or may hereafter be subject to the jurisdiction of the City of Portland under their respective franchise agreements, under Chapter 3.114 and 3.115 of the City Code, or under other applicable laws, rules, regulations or agreements.

3.115.175 Customer Service and Telephone Responsiveness.

(Added by Ordinance No. 163442, effective Sept. 5, 1990.)

- A.** Grantee offices must be adequately staffed and able to respond to subscribers and the public not less than 50 hours per week, with a minimum of nine hours per day on weekdays and five hours on Saturdays.
- B.** As used herein, “adequately staffed” means toll-free telephone lines are open and customer service representatives are available to respond in at least the following ways:
 - 1.** To accept payments;
 - 2.** To exchange or accept returned converters or other company equipment;
 - 3.** To respond to inquiries; and
 - 4.** To schedule and conduct service or repair calls.
- C.** Toll-free telephone lines, either staffed or with answering capability; providing at least emergency referral information, must be operational 24 hours a day, including weekends and holidays.
- D.** Each grantee shall maintain, on average as verifiable by statistical data;
 - 1.** Sufficient customer service staff and telephone line capacity to handle normal call volume with a minimum of delay to customers; and
 - 2.** As least ninety percent responsiveness during normal call volume, defined as fewer than one customer call in ten will encounter a busy signal or a delay in reaching a customer service representative exceeding one minute in length.

3.115.180 Service and Repair Calls.

(Added by Ordinance No. 163442, effective Sept. 5, 1990.)

- A.** Requests from subscribers for repair and maintenance service must be acknowledged by a grantee within 24 hours or prior to the end of the next business day, whichever is earlier. Repair and maintenance for service interruptions or other repairs not requiring on-premises work must be completed within 24 hours under normal operating procedures. All other repairs should be completed within 72 hours in normal circumstances. No charge may be made to

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subscribers for this service, except in cases beyond the reasonable control of the grantee, such as documentable cases of repeated subscriber negligence or abuse of grantee equipment.

- B.** As a normal operating procedure, upon subscriber request each grantee shall provide either a specific appointment time or else a pre-designated block of time (not to four hours) for subscriber service appointments to be scheduled Monday through Saturday in the morning, the afternoon or after 5:00 P.M. (repair only).
- C.** As a normal operating procedure, and with particular regard to the needs of working or mobility-limited customers, upon subscriber request each grantee shall arrange for pickup and/or replacement of converters or other company equipment at the subscriber's address, or else a satisfactory equivalent (such as the provision of a postage-prepaid mailer).

3.115.185 Disconnection.

(Added by Ordinance No. 163442, effective Sept. 5, 1990.)

- A.** A grantee may disconnect a subscriber for cause if:
 - 1.** At least 30 days have elapsed after the due date for payment of the bill of the affected subscriber; and
 - 2.** The grantee has provided at least 10 days written notice to the affected subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection.
- B.** Regardless of subsection A hereof, a grantee may disconnect a subscriber for cause at any time if the grantee in good faith determines that the subscriber has tampered with or abused company equipment, or is or may be engaged unlawfully in theft of cable services.
- C.** A grantee shall promptly disconnect any subscriber who so requests from the grantee's cable system. No period of notice prior to voluntary termination of service may be required of subscribers by any grantee. No charge may be imposed by any grantee for such voluntary disconnection, or for any cable services delivered after the date of the disconnect request. Upon the later of the date of actual disconnection or the return of all company equipment to grantee, the grantee shall within ten working days return to such subscriber the amount of the deposit, if any, collected by grantee from such subscriber, less any undisputed amounts owed to grantee for cable services or charges prior to the date of disconnection.

3.115.190 Credits Upon Outage.

(Added by Ordinance No. 163442, effective Sept. 5, 1990.) Except for planned outages where subscribers are provided reasonable notification in advance, upon a subscriber's request a grantee shall provide a pro-rated 24-hour credit to the subscriber's account for any period of four hours or more during which that subscriber experienced an outage or substantial impairment of cable service.

3.115.195 Itemized Billing.

(Added by Ordinance No. 163442, effective Sept. 5, 1990.) Each grantee bill to subscribers must itemize each category of service, equipment, or other applicable fees, and state clearly the charge therefor.

3.115.200 Information to Subscribers.

(Added by Ordinance No. 163442, effective Sept. 5, 1990.)

- A.** Upon installing initial service to or reconnecting each customer, and upon request thereafter each grantee must advise the customer, in writing, of:

 - 1.** The equipment and services currently available (including parental lock-out devices) and the rates and charges which apply;
 - 2.** The amount and criteria for any deposit required by grantee, if applicable, and the manner in which the deposit will be refunded;
 - 3.** The grantee's policies and procedures by which complaints or inquiries of any nature will be addressed;
 - 4.** The toll-free telephone number and address of the grantee's office to which complaints and inquiries may be reported;
 - 5.** The company's practices and procedures for protecting against invasions of subscriber privacy; and
 - 6.** The notice and referral information to the City of Portland, as set forth in subsection B hereof.
- B.** Each grantee shall semi-annually send written notice to all subscribers that any complaints or inquiries not satisfactorily handled by the company may be referred to the City of Portland Office of Cable Communications and Franchise Management and the Cable Regulatory Commission. Such notification may be included with a billing statement, and shall contain either the printed text specified in subparagraph 1 hereof or an alternative text approved by the Commission.

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1. The text of the printed notice shall be as follows, unless otherwise authorized by the Commission:

PLEASE READ THIS

The City of Portland through the citizen Cable Regulatory Commission (CRC), and the Office of Cable Communications and Franchise Management (City Cable Office), is responsible for monitoring the customer service, system performance, and franchise compliance of your cable company. Toward this end, the City and your cable company work continuously to monitor and improve cable TV customer service in your community.

However, at times you may encounter problems with your cable service that you have been unable to resolve with your cable company. The City Cable Office and the CRC are available to help you with unresolved problems. If this is the case, please call the City Cable Office at 823-5385 weekdays (an answering machine takes messages after business hours), or write to the CRC c/o the City Cable Office, 1120 SW Fifth Avenue, #1021, Portland, OR 97204.

However, please contact your cable company FIRST, before calling the City Cable Office about your problem.

Cable Regulatory Commission meetings are generally held the second Tuesday of each month. Please call or write the City Cable Office for more information.

This announcement has been brought to you as a public service of the City of Portland and your cable company.

PLEASE SAVE FOR FUTURE REFERENCE

2. Such notice, in large boldface type, shall also be posted in a conspicuous place in grantee offices located within the City where customer service transactions are conducted within the meaning of Section 3.115.175 hereof.
- C. Each grantee shall provide to its subscribers and the City written notice at least 10 days in advance of any deletions in programming services, increases in any rates, costs, or charges to subscribers, or any channel repositioning within the control of grantee.

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- D.** All grantee promotional materials, announcements, and advertising of residential cable services to subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all grantee-prepared promotional materials must clearly and accurately disclose price terms and in the case of telephone orders, a grantee shall take appropriate steps to ensure that grantee customer service representatives clearly and accurately disclose price terms to potential customers in advance of taking the order.

3.115.205 Nondiscrimination.

(Added by Ordinance No. 163442, effective Sept. 5, 1990.)

- A.** No grantee shall unlawfully discriminate against any person in the provision of cable television services on the basis of race, color, religion, national origin, sex, sexual preference, age disability, income, or the area in which such person lives.
- B.** Each grantee shall use best efforts to assure maximum practical availability of grantee services and facilities to all subscribers, regardless of disability, including the provision of a remote control device to those subscribers who are mobility limited, or where a member of the subscriber's household is mobility limited.
- C.** For hearing impaired customers, each grantee shall provide information concerning the cost and availability of equipment to facilitate the reception of all basic services for the hearing impaired. In addition, each grantee must have TDD/TTY (or equivalent) equipment at the company office, and a publicly listed telephone number of such equipment, that will allow hearing impaired customers to contact the company.
- D.** Upon request by a subscriber or potential subscriber, each grantee shall make a reasonable effort to provide information required under Section 3.115.195, or otherwise provided in the normal course of business, in both English and the primary language of the requestor.

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Chapter 3.116

WATERWAYS ADVISORY COMMITTEE

(Added by Ordinance No. 150413,
effective Sept. 17, 1980.)

Sections:

- 3.116.010 Created - Organization.
- 3.116.020 Procedures and Rules.
- 3.116.030 Duties.

3.116.010 Created - Organization.

There hereby is created an advisory committee to the Commissioner In Charge of the Bureau of Planning to be known as the Waterways Advisory Committee, consisting of not less than 7 nor more than 11 voting members who shall serve without compensation. The Commissioner In Charge shall appoint the members of the Committee, the members to serve for a term of 2 years at the pleasure of the Commissioner In Charge. The president of the Planning Commission or his or her representative shall be a member of the Committee.

3.116.020 Procedures and Rules.

The Waterways Advisory Committee shall establish its own rules, bylaws, and provide the procedure for all matters for consideration or action by the Committee. The Committee shall hold meetings at such time as is set by the body at any other time at the call of the Chairman.

3.116.030 Duties.

Members of the Waterways Advisory Committee shall:

- A.** Review any zoning Code amendment relating to waterways before it is presented to the Planning Commission, make its finds available to the Planning Commission and City Council;
- B.** Review and comment to the Planning Commission and City Council on public or private riverfront development proposals that are potentially in conflict with the City's Greenway Plan.
- C.** Identify opportunities for City encouragement of commercial, residential, recreational, transportation and educational development that fulfills public goals.

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- D.** Review the status of plans for publicly constructed segments of the Greenway path and suggest priorities for those segments.
- E.** Make recommendations to the Planning Commission and City Council for the development of City procedure to facilitate applicants' needs for a speedy and certain regulatory process and City policies consistent with such a goal.
- F.** Make recommendations to the Planning Commission and City Council on City policies governing use and development of the City's waterways.

Chapter 3.120

**METROPOLITAN ARTS
COMMISSION**

(Added by Ordinance No. 157240;
repealed by Ordinance No. 168592,
effective Mar. 8, 1995.)

Chapter 3.122

**ECONOMIC IMPROVEMENT
DISTRICTS**

(New Chapter substituted by
Ordinance No. 164665,
effective Sept. 18, 1991.)

Sections:

- 3.122.010 Purpose.
- 3.122.020 Definitions.
- 3.122.030 Council Control.
- 3.122.040 Statutory Provisions Applicable.
- 3.122.050 Preliminary Institution of Economic Improvement District
- 3.122.060 Final Plan and Ordinance Preparation.
- 3.122.070 Consideration of Final Plan and Ordinance.
- 3.122.080 Notice to Owners.

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- 3.122.090 Exemption Process.
- 3.122.100 Hearing and Resolution Establishing District.
- 3.122.110 Preparation and Notice of Assessments.
- 3.122.120 Hearing on Assessments.
- 3.122.130 Amendments to Ordinance.
- 3.122.140 Limitation on Assessments.
- 3.122.150 Limitation on Boundaries.
- 3.122.160 Continuation of Assessments.
- 3.122.170 Expenditure of Moneys.
- 3.122.180 Cost of Administration.
- 3.122.190 Limitation on Expenditures.
- 3.122.200 Administration
- 3.122.210 Early Termination.
- 3.122.220 Surplus.
- 3.122.230 Entry and Collection of Assessments.

3.122.010 Purpose.

The purpose of this Chapter is to establish procedures for the creation of two types of Economic Improvement Districts, one in which the assessment is mandatory and applied to all properties except Exempt Properties, the second type in which the property owner can decide whether to be assessed, a voluntary assessment, as authorized by state law. The City will be ultimately responsible for administering and operating any Economic Improvement District , although the administration and operation may be carried out by others under contract with the City. All costs of administering and operating any Economic Improvement District will be paid entirely from assessments and fees actually received from the District; the City will not pledge its credit on behalf of the District; and the City will not loan funds to the District.

3.122.020 Definitions.

The following words and phrases when used in this Chapter shall have the following meanings, except where the context requires a different meaning:

- A. **“Advisory Committee”** means a committee of persons representative of the owners and tenants of property within an Economic Improvement District and may consist of an existing association of property owners or tenants or both.
- B. **“Commissioner In Charge”** means the commissioner in charge of the lead bureau.
- C. **“Economic Improvement”** means:
 - 1. The planning or management of development or improvement activities.

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2. Landscaping, maintenance and provision of security for public areas.
3. The promotion of commercial activity or public events.
4. The conduct of activities in support of business recruitment and development.
5. The provision of improvements in parking systems or parking enforcement.
6. Any other economic improvement activity that specially benefits property. “Economic improvement” does not include any services to be provided on private property.

D. “Preliminary Economic Improvement Plan” means a plan prepared by the property owners or tenants within the proposed District or their designees setting out:

1. A description of economic improvements proposed to be carried out;
2. The number of years, to a maximum of three, in which assessments are proposed to be levied;
3. A preliminary estimate of annual cost of the proposed economic improvements;
4. The proposed boundaries designated by map or perimeter description of an Economic Improvement District within which subject properties would be assessed to finance the cost of the economic improvements;
5. The proposed formula for assessing the cost of the economic improvements against subject properties;
6. A preliminary estimate of the cost of City administration of the proposed Economic Improvement District;
7. A statement whether the assessment will be a voluntary assessment or mandatory assessment, and
 - a. If voluntary, that the scope and level of improvements could be reduced depending upon the amount of money collected; or,

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- b. If mandatory, that the assessment will be considered a tax under the Oregon Constitution, Art. XI § 11b and it may be reduced to fit within the property tax limitation thereby affecting the scope and level of services described; and
 8. A statement of why the proposed economic improvements are not likely to be satisfactorily and equitably accomplished except through establishment of an Economic Improvement District.
- E. “**Final Economic Improvement Plan**” means a plan setting out:
1. A description of economic improvements to be carried out;
 2. The number of years, to a maximum of three, in which assessments will be levied;
 3. The annual cost of the proposed economic improvements;
 4. The boundaries designated by map or perimeter description of the Economic Improvement District within which subject properties will be assessed to finance the costs of the Economic Improvement District;
 5. The formula for assessing the cost of the economic improvements against subject properties;
 6. A statement whether the assessment will be a voluntary assessment or mandatory assessment, and
 - a. If voluntary, that the scope and level of improvements could be reduced depending upon the amount of money collected; or,
 - b. If mandatory, that the assessment will be considered a tax under the Oregon Constitution, Art. XI § 11b and it may be reduced to fit within the property tax limitation thereby affecting the scope and level of services described; and
 7. The cost of City administration of the Economic Improvement District.
- F. “**Lead bureau**” means the City office, bureau or commission determined by the Mayor to have the principal interest in a proposed Economic Improvement District.
- G. “**Lot**” means a lot, block, or parcel or land.

- H.** “**Owner**” means the owner of the title to real property or the contract purchaser of record as shown on the last available complete assessment roll in the Office of the County Assessor.
- I.** “**Subject Properties**” means the real property within an Economic Improvement District except for Exempt Property.
- J.** “**Exempt Property**” means:
- 1.** Residential real property and any portion of a structure used for residential purposes. In the event a structure is used for both residential and non-residential purposes, the land on which the structure is located shall not be Exempt Property. For purposes of this subsection, “residential real property” and “residential purposes” shall not include hotels and hotel uses, as defined in Section 33.12.420 of this Code, and motels and motel uses, as defined in Section 33.12.560 of this Code, but shall include hotel and hotel uses if, for the entire hotel or entire hotel use:
 - a.** The average rent per unit is less than \$2 per day, or
 - b.** A majority of the units regularly are occupied by the same tenants for more than 30 consecutive days, or
 - c.** A majority of the units regularly are occupied by occupants who pay for lodging on a monthly basis.
 - 2.** Property owned or being purchased by religious organizations including:
 - a.** All houses of public worship; and other additional buildings and property used solely for administration, education, literary, benevolent, charitable, entertainment, and recreational purposes by religious organizations, the lots on which they are situated, and the pews, slips, and furniture therein. However, any part of any house of public worship or other additional buildings or property which is kept or used as a store or shop or for any purpose other than those stated in this Section shall not be exempt property.
 - b.** Parking lots used for parking or any other use as long as that parking or other use is permitted without charge.
 - c.** Land and the buildings thereon held or used solely for cemetery or crematory purposes, including any buildings solely used to store machinery or equipment used exclusively for maintenance of such lands.

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- K.** “**Task Force**” means a committee whose membership consists of representatives of those City offices, bureaus, and commissions that have a significant interest in a proposed Economic Improvement District and a representative appointed by the Advisory Committee. The City Auditor or a representative designated by the City Auditor shall be a member of each Task Force.

3.122.030 Council Control.

Whenever the Council determines that economic improvements would be appropriate and would afford a special benefit to subject properties within a particular District, the Council, subject to the provisions of this Chapter, may establish an Economic Improvement District and provide for payment of all or a portion of the cost by collection of assessments on either a mandatory or voluntary basis. The Council may decline for any reason within its sole discretion to establish a proposed Economic Improvement District. This Chapter shall not give to any person the right to have an Economic Improvement District established.

3.122.040 Statutory Provisions Applicable.

Statutory provisions applicable to Economic Improvement Districts shall be followed by the City and by owners in all cases. The provisions of this Chapter are intended to supplement and to implement the statutory provisions.

3.122.050 Preliminary Institution of Economic Improvement District.

- A.** The Council shall consider creation of an Economic Improvement District whenever owners of Subject Properties file with the Auditor a petition for the establishment of a District containing the signatures of the owners of 33 percent or more of the area or of the assessed value of subject properties within the proposed District or whenever a City Commissioner or the Mayor files a report recommending the establishment of a District. A petition or report shall contain a Preliminary Economic Improvement Plan.
- B.** The Council may adopt a resolution directing the lead bureau to begin the Economic Improvement District formation process if the Council finds that:
- 1.** The costs of administering the proposed Economic Improvement District would not be substantial in relationship to the cost of the economic improvements;
 - 2.** It is not likely that the economic improvements would be satisfactorily and equitably accomplished except through establishment of the Economic Improvement District;

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3. Establishment of the Economic Improvement District would be in the public interest;
 4. In the case of a District intended to impose a mandatory assessment, that the assessment can be accommodated within the property tax limitation and City budget; and
 5. The economic improvements would afford a special and peculiar benefit to subject properties within the Economic Improvement District different in kind or degree from that afforded to the general public.
- C. The resolution may contain such revisions to the preliminary economic improvement plan as the Council deems appropriate based on the criteria set out in Paragraphs 1 through 5 of this Subsection and shall designate those City offices, bureaus, and commissions to be represented on the task force for the proposed District.
- D. Upon adoption by the Council of a resolution under Subsection B of this Section, the Mayor shall designate a lead bureau for the proposed Economic Improvement District from among those designated to be represented on the task force and shall refer the matter to the Commissioner In Charge.
- E. Immediately following the referral under Subsection D of this Section, the Commissioner In Charge shall appoint an advisory committee to assist the task force in development of the final economic improvement plan. The Commissioner shall strongly consider appointment of owners of property within the Economic Improvement District to the advisory committee. The Commissioner may appoint as the advisory committee an existing association of property owners or tenants or both. The task force shall encourage participation of the advisory committee in the plan development and administration process. The advisory committee shall appoint a representative to the task force.

3.122.060 Final Plan and Ordinance Preparation.

- A. Immediately following Council adoption of a resolution under Section 3.122.050 B, the head of each office, bureau and commission to be represented on the task force shall appoint its representative and the City Auditor shall appoint the city Auditor's representative, by notification to the head of the lead bureau.
- B. The City Auditor's representative shall provide to the task force a report setting out:
1. Whether the petitioners under Section 3.122.050 A are owners of subject property in the proposed District;

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2. Delinquencies in taxes or City liens on subject properties in the proposed District;
 3. The true cash value of all real property located within the proposed District; and
 4. The zoning of land within the District, including verification that only land zoned for commercial or industrial use is included within the District.
- C. The lead bureau shall be responsible for preparing the documents referred to in Subsection D.
- D. The task force shall prepare for the Commissioner In Charge a report recommending whether the owners of property within the proposed Economic Improvement District shall be formally notified of the proposal to establish the District, taking into consideration the criteria set out in Section 3.122.050 B. If the report recommends formal notification, the report shall include a proposed Final Economic Improvement Plan and the report of the City Auditor's representative provided under Subsection B. The report also shall include a proposed ordinance that:
1. States the Council's intention to proceed with formal notification regarding the proposed Economic Improvement District;
 2. States whether the assessments will be mandatory or voluntary;
 3. Contains the information in the Final Economic Improvement Plan, which may be included by attachment of the Plan as an exhibit; and
 4. Directs notice to be given in the manner provided by PCC 3.122.080.

3.122.070 Consideration of Final Plan and Ordinance.

- A. If the Commissioner in Charge deems it appropriate, the Commissioner shall file for Council consideration the report and ordinance prepared under Section 3.122.060 D.
- B. On consideration of the report and ordinance, the Council may approve, modify, or reject the report including any aspect of the Final Economic Improvement Plan, and the ordinance. If the Council determines that the proceedings for the proposed Economic Improvement District should go forward, the Council shall adopt the ordinance including any modifications.

3.122.080 Notice to Owners.

- A.** Following adoption of the ordinance under Section 3.122.070 B, the Auditor shall mail notice to the property owners within the proposed Economic Improvement District which contains the following information:
- 1.** The Council's intent to form an Economic Improvement District.
 - 2.** Benefitted properties will be assessed unless it is a voluntary assessment in which case only property owners who specifically request to be assessed will be assessed. An owner who fails to submit a written objection before or at the public hearing on assessment shall be deemed to have made a specific request to be assessed.
 - 3.** The formula for determining the amount of the assessment.
 - 4.** The scope of the improvements and that the description of the boundaries of the proposed District and the full scope of the project are on file with the Auditor and where the file can be viewed. It should state that:
 - a.** In the case of a voluntary assessment the scope and level of the improvements may be reduced depending on the amount of money collected; or
 - b.** In the case of a mandatory assessment the scope and level of the improvements may be reduced if the amount of the assessment is compressed to fit within the property tax limitation imposed by the Oregon Constitution, Art. XI § 11b.
 - 5.** The estimated cost of the proposal, and that it may be reduced to the amount of money actually received.
 - 6.** The date, time and place of the hearing and that the proposal could be modified as a result of public testimony.
 - 7.** The classification or types of properties which are exempt and that a request for an exemption on an enclosed form must be filed not later than 21 days after the notice is mailed.
 - 8.** In the case of a voluntary assessment that it is an incurred charge and is not a tax and is a charge outside the property tax limitations in the Oregon Constitution, Art. XI, §11b.

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3.122.090 Exemption Process.

- A.** Property within the proposed District is conclusively presumed subject to assessment unless the owner files with the Auditor a claim for exemption not later than 21 days after the date of mailing or personal delivery of the notice.
- B.** The Auditor, in his or her discretion, may audit a claim or claims for exemption to determine whether property claimed to be exempt from assessment is exempt property. The audit may include review of such evidence as the Auditor deems appropriate and may include a viewing of the property. In the event the Auditor determines that the property for which an exemption is claimed is not exempt, the Auditor shall give the owner written notice of the determination and the reasons , by mail or personal delivery. The notice shall give the owner 10 days time within which to provide written evidence as to why the property is exempt. In the event the owner provides no written evidence within the time allowed, the property conclusively shall be presumed not to be exempt property. In the event the owner submits written evidence, the Auditor shall review the evidence and either approve or disapprove the claim for exemption and provide written notice to the owner, including a statement of the reasons for the Auditor's decision. The Auditor's approval or disapproval following review of the evidence shall be final.

3.122.100 Hearing and Resolution Establishing District.

- A.** The Council shall hold a public hearing on the proposed Economic Improvement District at the time and place stated in the notice to owners of properties. The public hearing shall be held no sooner than 30 days after mailing the notice. The Council may continue the hearing to such other time and place as it may deem appropriate. At the hearing, persons supporting or objecting to the proposed improvement and assessment shall be entitled to be heard.
- B.** If the Council, at the conclusion of the hearing, finds that the economic improvements will afford a special and peculiar benefit to subject properties within the Economic Improvement District different in kind or degree from that afforded to the general public and that the Economic Improvement District should be established, then the Council may adopt a resolution stating those findings and establishing the District.

3.122.110 Preparation and Notice of Assessments.

- A.** Following Council adoption of a resolution establishing an Economic Improvement District based on the final Economic Improvement Plan, the Auditor shall prepare the proposed assessment for each lot in the District that is a

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subject property and shall file a proposed assessment ordinance, with a list of proposed assessments attached, with the City Council. The amount of assessment shall be based on the cost of the economic improvements and the cost of City administration of the Economic Improvement District.

- B.** Following preparation of the proposed assessments, the Auditor shall mail to the owner of each lot to be assessed a notice containing the following information:
- 1.** The description of the property being assessed.
 - 2.** The name of the District and whether it is a voluntary or mandatory assessment. In the case of a voluntary assessment a statement that the property will be assessed unless the property owner specifically requests in writing not to be assessed.
 - 3.** The length of the District and the total cost of the project, the assessment formula, and the amount of the assessment on the property.
 - 4.** The assessment will not change unless the Council finds it exceeds the benefit of the improvements, but the total amount and scope of the improvements and level of services could change to correspond to the amount of money collected. Further, the scope of the improvements and level of services could change as a result of the testimony.
 - 5.** The time, date and place of the hearing and that the following forms of objection may be filed:
 - a.** A written objection to being assessed in which case no assessment will be placed on the property if it is a voluntary assessment. An owner who fails to submit a written objection before or at the public hearing shall be deemed to have made a specific request for the economic improvement service to be provided during the time specified in the assessment ordinance;
 - b.** An objection to the amount of the assessment on the grounds it is incorrect or exceeds the amount of benefit; and
 - c.** An objection to the formation of the District.
 - 6.** A written objection may be filed with the Auditor prior to the hearing or made orally at the hearing. An objection to the assessment must explain the reasons the assessment is incorrect or exceeds the amount of benefit.

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7. The assessment is due and payable immediately, and whether it may be paid in installments. The amount of interest if any and the fact there will be billing charges. The unpaid balance will become a lien on the property and failure to pay could result in foreclosure.
8. A voluntary assessment is an incurred charge and is a charge outside the property tax limitation imposed by the Oregon Constitution, Art. XI, §11b.
9. Property included in the District and assessed cannot be withdrawn from the District and the assessment will continue through the life of the District.
10. The name and phone number of a City staff person who can answer questions.

3.122.120 Hearing on Assessments.

- A. The Council shall hold a public hearing on the proposed assessment ordinance. The public hearing shall be held no sooner than 30 days after mailing the notice. The Council may continue the hearing to a date and time certain. At the hearing, property owners supporting or objecting to being assessed, to the amount of the assessment or to the formation of the District, shall be entitled to be heard.
- B. Written objections shall be considered to have been received by the Council at the hearing if actually received at the hearing or if received by the Auditor prior to commencement of the hearing. A written objection signed by a person purporting to have authority as agent or attorney to sign an objection on behalf of an owner shall be considered received from the owner only if there is included with the objection a copy in writing of the authority to act on behalf of the owner.
- C. If the Council at the hearing receives written objections to the formation of the District from owners of property upon which more than 33 percent of the total value of assessments are levied, then the Economic Improvement District shall not be established and assessments shall not be made.
- D. At the hearing, the Council shall consider any objections and may adopt, correct, modify, revise the proposed assessment ordinance. In the case of a voluntary assessment, the Council shall exclude from assessment property which the owner has requested be omitted from assessment. The request shall be made in writing and submitted prior to the close of the hearing.

3.122.130 Amendments to Ordinance.

- A.** At the hearing under Section 3.122.100, the Council may amend by ordinance the initial ordinance adopted under Section 3.122.070. The procedures required by Sections 3.122.080 and 3.122.100 shall be repeated if the amendment:

 - 1.** Changes the economic improvements to be carried out except this provision shall not apply to a voluntary assessment;
 - 2.** Increases the likely assessment upon one or more properties; or
 - 3.** Enlarges the Economic Improvement District;
- B.** At the hearing under Section 3.122.120, the Council may amend by ordinance the initial ordinance adopted under Section 3.122.070 as subsequently amended. If the amendment increases the likely assessment upon one or more properties, then the procedures required by Sections 3.122.110 and 3.122.120 shall be repeated. The procedures required by Section 3.122.080 through 3.122.120 shall be repeated if the amendment:

 - 1.** Changes the economic improvements to be carried out except this provision shall not apply to a voluntary assessment; or
 - 2.** Enlarges the Economic Improvement District.

3.122.140 Assessments.

- A.** The Council shall not levy assessments in an Economic Improvement District in any year that exceed one percent of the true cash value of all the real property located within the District.
- B.** Any new owner of benefitted property or any owner of benefitted property who excluded the property from assessment by submitting written objections may subsequently agree to the assessment of the property. The Council shall apply the assessment formula to the property and apportion the costs to the property for the remaining time in which the assessment is levied.
- C.** The assessed property may not be relieved from liability for that assessment for any reason including change of ownership.

3.122.150 Limitation on Boundaries.

The Council shall not include within an Economic Improvement District any area of the City that is not zoned for commercial or industrial use.

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3.122.160 Continuation of Assessments.

If the Council has established an Economic Improvement District and thereafter determines that it is necessary to levy assessments upon subject property in the District for longer than the period of time specified in the assessment ordinance that created the District, the Council shall enact an ordinance that provides for continued assessments for a specified number of years, to a maximum of three. The assessment of lots under such an ordinance shall be subject to the procedures required by Sections 3.122.110 and 3.122.120.

3.122.170 Expenditure of Moneys.

Money derived from assessments levied under this Chapter and from interest earned on that money shall be spent only for the economic improvements and for the cost of City administration of the Economic Improvement District described in the final Economic Improvement Plan. Subject to the requirements of any labor agreements to which the City is a party and to any applicable requirements of state law, the Council in its discretion may authorize an agreement or agreements with the advisory committee appointed under Section 3.122.050 D for the committee to provide all or part of the economic improvements described in the final economic improvement plan.

3.122.180 Cost of Administration.

The cost of City administration of an Economic Improvement District shall include the actual cost of administrative services provided by the City related to the District.

3.122.190 Limitation on Expenditures.

Money spent for carrying out a final Economic Improvement Plan shall be limited to money actually received from assessments or from other public or private contributions to assist in carrying out the Plan.

3.122.200 Administration.

The task force for an Economic Improvement District shall be responsible for administration of the economic improvements to be carried out. With the concurrence of the head of the lead bureau, the task force may designate an employee of the lead bureau as the person responsible for day to day administration of the economic improvements. In the event the task force determines that the economic improvements should be performed by a contractor or contractors, the task force shall prepare for Council consideration contracts for the work. In each case, the contract for work shall include not less than the following:

- A.** A description of the work to be done;
- B.** A description of the method of compensation for the work;

- C.** A description of records to be kept by the contractor to evidence performance of the work and of the documentation to be provided to the City to justify payment for work;
- D.** A description of any liability to be born and insurance to be provided by the contractor; and
- E.** A description of the rights of the City to terminate the contract prior to its completion.

3.122.210 Early Termination.

The City Council may terminate the activities of an Economic Improvement District in whole or in part prior to the normally scheduled termination date for the District by an ordinance. However, all applicable contract issues shall be resolved before activities are terminated. In the event of early termination, those funds remaining from assessments for the District, following payment of all obligations and costs of administration incurred on behalf of the District, shall be returned to the owners of subject properties in amounts proportionate to the amounts of the assessments they paid for the District. In the event of early termination of only a part of the activities of an Economic Improvement District, the City Council, in the termination ordinance, may elect to apply remaining funds on a similarly proportionate basis as a credit against future District assessments against subject properties, with any funds remaining being returned to the owners as otherwise provided herein.

3.122.220 Surplus.

In the event, following the normally scheduled termination of an Economic Improvement District, including the payment of all obligations and costs of administration incurred on behalf of the District, there remain excess funds from assessments paid by owners of subject properties, then the City Council, by ordinance, shall provide for either:

- A.** The return of the excess funds to the owners of subject properties in amounts proportionate to the amounts of the assessments they paid for the District;
- B.** Use of the excess funds for continued provision of the economic improvements until the excess funds are fully spent; or
- C.** Use of part of the excess funds as provided in B and return of the balance of the excess funds as provided in A.

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3.122.230 Entry and Collection of Assessments.

- A.** On adoption of an assessment ordinance under Section 3.122.120 D, the City Auditor shall enter each assessment in the docket of City liens. All such assessments shall be collected in the same manner as local improvement assessments and failure to pay may result in foreclosure in the same manner as provided for other assessments.
- B.** The assessments may be paid in semi-annual payments, however the City may charge a billing fee.

3.122.240 Economic Improvement Fund.

(Repealed by Ordinance No. 170223, effective July 1, 1996.)

Chapter 3.123 PORTLAND UTILITY REVIEW BOARD

(Replaced by Ordinance No. 177275,
effective March 21, 2003.)

Sections:

- 3.123.010 Created - Purpose.
- 3.123.020 Scope.
- 3.123.030 Membership.
- 3.123.040 Appointments - Composition.
- 3.123.050 Recruitment Process.
- 3.123.060 Terms.
- 3.123.070 Standing Committees.
- 3.123.080 Staffing.
- 3.123.090 Meeting Schedule.
- 3.123.100 By-Laws.
- 3.123.110 Annual Report and Work session.

3.123.010 Created - Purpose.

A Portland Utility Review Board is hereby created. The Board's purpose is to advise the City Council, on behalf of and for the benefit of the citizens of Portland, on water, sewer, stormwater and solid waste financial plans and rates. The Board will advise Council on the establishment of fair and equitable rates, consistent with customer needs, legal mandates, existing public policies, operational requirements, and the long-term financial stability and viability of the utilities.

3.123.020 Scope

The Board shall perform the following functions:

- A.** Participation in the financial planning process. The Bureau of Water Works, the Office of Sustainable Development and the Bureau of Environmental Services use multi-year financial planning to prioritize programs and to project operating and capital costs associated with policies and programs, and to estimate overall rate impacts. The bureaus update their financial plans throughout the year to reflect significant changes in revenues or requirements, and re-do the plans annually. The Board will review the proposed financial plans and revisions, and submit its findings and recommendations to the Council as part of the City's annual financial planning process.
- B.** Participation in the rate design process. The Board will make recommendations to the Council on the equitable distribution of rate adjustments among customer classes, as determined in the rate design process. The Board will report on proposed rate changes to the Council during the annual budget hearings and development processes for water, sanitary sewer, stormwater and solid waste rates. The Board will also participate in the periodic review and analysis of alternative rate designs proposed by Council. The Board shall report on other city activities or proposed policies with significant impacts to water, sewer and solid waste rates.
- C.** Relationship to other citizen advisory groups. The Council and the bureaus may form other groups, as necessary, to advise on utility matters. The Board and its staff will exchange information with these other advisory groups to coordinate policy advice to the Council and the bureaus.
- D.** Relationship to other interested parties. The Board's primary responsibility and duties are to advise the Council, and its deliberations and recommendations shall be directed to Council accordingly. The Board may also share the results of its deliberations and recommendations delivered to Council with interested individuals and groups including neighborhoods, business associations, and public interest groups.

3.123.030 Membership.

The Board shall have nine (9) permanent members. The Mayor shall appoint the Chair of the Board. Five members shall constitute a quorum of the Board.

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3.123.040 Appointments - Composition.

- A.** General Criteria. All members must reside in or work predominantly in the City of Portland and have an interest in sewer, water and solid waste issues, such as system development and maintenance, service delivery, service costs and impacts on low-income households, economic development, conservation or environmental concerns. In making appointments, the Mayor and City Council will attempt to have a range of professional and academic expertise, and volunteer experience, represented on the Board in disciplines such as accounting, civil engineering, conservation, environmental sciences, health sciences, public administration, urban planning, or utility economics. In making Board appointments, the Mayor and Council shall strive to have a Board which reflects the diversity of the Portland community, especially regarding customer classes, income levels, cultural and ethnic identity, geographic location, age and gender.
- B.** Restrictions. No individual with any direct financial interest in a city utility or solid waste franchises, whether by ownership, employment, contract or otherwise, shall be appointed to or serve on the Board.
- C.** Board Appointments. Board members shall be appointed by the Mayor and confirmed by the Council. Any Council member may submit recommendations to the Mayor on potential appointments to the board. Nominations shall reflect four general categories:
 - 1.** Residential Geographic Representation. The Mayor will seek nominations from neighborhood associations, district coalitions and residential customers (renters and land owners) in various City neighborhoods. Three seats shall be filled from residential geographic nominations. The Mayor will appoint members representing residential customers from each of three geographic areas within the City comprised of:
 - a.** West Portland - the area west of the Willamette River,
 - b.** Northeast/Southeast Portland - the area east of the Willamette River and west of Interstate 205, and
 - c.** East Portland - the area east of Interstate 205.
 - 2.** Public Interest Advocacy. The Mayor will seek nominations from organizations working to support low and moderate income issues, environmental concerns, senior, fixed income and special needs populations. Two seats shall be filled from public interest advocacy nominations. The council will strive to create diversity in making nominations for these two seats.

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3. Large Commercial/Industrial Businesses: The Mayor will seek nominations from businesses which have a current industrial discharge permit, discharge at least 10,000 gallons per day of waste-water to the sewer system, or use 10,000 cubic feet of water per month. One seat shall be filled from commercial/industrial business nominations.
 4. Local Businesses: The Mayor will seek nominations from businesses headquartered in the City that predominantly serve Portland-area residents. Retail, service or neighborhood businesses, and those not otherwise meeting the Large Commercial/Industrial category criteria, are eligible for inclusion in this category. One seat shall be filled from local business nominations.
 5. At-Large: To provide flexibility in meeting the Board's goal of membership diversity, the Mayor will appoint one member from applications received "at-large." Any individual or any group interested in participating on the Board may submit nominations in this category. Two seats shall be filled from At-Large nominations.
- D.** Council Liaisons. Each member of the City Council may appoint one member of their staff to serve as a representative of their office to the Board. These representatives shall serve as communications contacts and shall not have voting privileges.

3.123.050 Recruitment Process.

- A.** Board positions and vacancies will be announced to local media publications and broadcasts, including local neighborhood newspapers, cable stations and radio, with a goal of widespread outreach. Nomination requests will also be sent to the city's Neighborhood Associations and District Coalition Boards, to consumer advocacy and environmental interest groups, and to Business District associations. The City's standard Boards and Commissions application form shall be used, with all nominations to be submitted to the Mayor's office.
- B.** The City's staff to the Board shall develop and keep current a list of publications to meet the requirements described in Subsection A. of this Section.
- C.** City Council members shall also seek nominations for the Board through publications or communications generated in their offices.

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3.123.060 Terms.

- A.** Board members will serve, without compensation, for a term of two years. The terms of each member shall run from the date of the City Council's confirmation of the member's appointment, or such other date as the Council may establish.
- B.** No member may serve on the Board for more than six consecutive years. The Board shall develop a brief process and/or form for recommendations to the Mayor in regard to members desiring reappointment.
- C.** If any member of the Board is absent more than three regularly scheduled meetings of the Board during any twelve-month period, without having notified the Chair in advance of such absence, such member shall be deemed to have resigned from the Board. The member's position shall thereafter be vacant and subject to appointment by the Mayor.
- D.** The Mayor may remove any member of the Board at his or her discretion for due cause, including but not limited to malfeasance or neglect of duties.

3.123.070 Standing Committees.

- A.** The Board may at any time establish standing committees of at least three individuals to address specific issues related to the Board's purpose.
- B.** The Board Chair, one other member of the Board, as approved by a majority vote of all Board members, and any Council liaisons to the Board will serve as the Board Executive Committee. The Executive Committee will facilitate on-going communication between the Board, the City Council, the Board staff, and the bureaus.
- C.** The Board may designate more specific roles and responsibilities for the Executive Committee and any standing committee in the Board by-laws.

3.123.080 Staffing.

The Office of Management and Finance will provide staffing for the Board, with logistical and topic-related support from the Bureau of Water Works, the Bureau of Environmental Services, the Office of Sustainable Development and other bureaus or agencies as needed.

3.123.090 Meeting Schedule.

The Board shall meet once monthly on a regular date established in the Board by-laws. Additional meetings may be scheduled during annual budget and rate review periods as determined by the Board Chair. The Board's Executive Committee and other standing committees will meet on an as-needed basis.

3.123.100 By-Laws.

The Board shall adopt by-laws to govern its procedures within the purposes of this chapter that shall not conflict with any portion of this ordinance and which are subject to the approval of the Commissioner in Charge of the Board. These by-laws shall include specifications concerning selection and tenure of standing committee chairs, division of responsibilities, attendance policies, meeting schedules, as well as communications between the Board and City agencies, the media and the general public, and any other appropriate matters.

3.123.110 Annual Report and Work session.

- A.** By September 30 of each year, the Board shall prepare and submit to the Council an annual report summarizing the work performed by the Board during the previous fiscal year (July 1 through June 30). The annual report shall include, but need not be limited to, a summary of issues reviewed and analyzed; a list of briefings and reports received from staff, outside experts and other informed parties; a summary of recommendations forwarded to the Council; and a summary of Council action on the recommendations.
- B.** Upon the completion of each Annual Report described in Subsection 3.123.110 A. of this section, the Board shall participate in a work session with the City Council. The purpose of this work session is to present the Annual Report and to create a work plan for the upcoming year.

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Chapter 3.124

**PORTLAND OFFICE OF
EMERGENCY MANAGEMENT**

(New Chapter added by Ordinance
No. 178616, effective July 21, 2004.)

Sections:

- 3.124.010 Definitions.
- 3.124.020 Portland Office of Emergency Management.
- 3.124.030 Purpose.
- 3.124.040 Organization.
- 3.124.050 Director's Powers and Duties.
- 3.124.060 Staff and Delegation.

3.124.010 Definitions.

- A. “Director” shall mean the director of the Portland Office of Emergency Management.
- B. “Disaster” means an occurrence of or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural, technological or human caused event including fire, flood, earthquake, windstorm, wave action, oil spill or other contamination, radioactive incident, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile or paramilitary action, or structure failure of a dam, building or infrastructure, or other public calamity requiring emergency action.
- C. “Disaster Policy Council” is the City’s policymaking body which oversees the emergency preparedness activities of the various city bureaus, ensuring unity of purpose. This includes preparation and approval of plans, training of city employees for emergency and disaster-related functions, and related emergency preparedness activities.
- D. “Emergency” means any human caused, technological or natural event or circumstance causing or threatening: loss of life, injury to persons or property, human suffering or financial loss including but not limited to fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of petroleum products or other hazardous material, contamination, utility or transportation emergencies, disease, blight, infestation, unmanageable crisis, influx of migrants, civil disturbance, riot, sabotage and war.

- E.** “Emergency Management Committee” shall be a committee made up of designated bureau emergency coordinators established to develop and implement plans, programs and training exercises to promote integrated disaster response efforts.

3.124.020 Portland Office of Emergency Management.

There is established by the City Council the Portland Office of Emergency Management as a part of the Mayor’s portfolio and charged with the implementation of Title 15, the Emergency Code.

3.124.030 Purpose.

The purpose of this office is to coordinate the City’s ability to address, and its long range planning for having to address, emergency situations. These efforts may be accomplished by direction from this office alone or in conjunction with plans and efforts from other City offices and bureaus, state and federal agencies and any other sources of assistance and planning.

3.124.040 Organization.

The Portland Office of Emergency Management (POEM) shall be directly responsible to the Mayor and, thereafter, to the City Council. Professional task forces, as deemed necessary by the Mayor, the Council or the POEM, as well as citizen committees, appointed by City bureau emergency management authorities and regional emergency management professionals may provide subject matter expertise in an advisory capacity to the POEM. Other City Bureaus shall provide the POEM with necessary information and assistance in the time of emergency and include, but are not limited to, the Bureau of Fire and Rescue, Police Bureau, Bureau of Water Works, Office of Transportation, Bureau of Maintenance, Bureau of Parks and Recreation, and the Bureau of Emergency Communications.

3.124.050 Director's Powers and Duties.

The Director of the Portland Office of Emergency Management shall:

- A.** Be responsible for managing the Office of Emergency Management;
- B.** Serve as the principle strategic advisor to the Mayor and Council on emergency management matters regarding the City’s preparedness and the plans for mitigation, response and recovery to and from natural and human caused emergencies;
- C.** Lead and direct the activities of the City’s Emergency Management Committee;
- D.** Oversee and participate in the coordination, development and maintenance of the City’s overall Comprehensive Emergency Management Plan;

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- E.** Be responsible for integrating emergency response related activities and programs both within the City and with outside organizations and agencies;
- F.** Review and propose amendments as necessary to all existing City emergency preparedness and management plans and, as appropriate, provide Council with the documentation necessary for its review and approval of the same.

3.124.060 Staff and Delegation.

- A.** The Director may appoint an Assistant Director who is accountable to the Director and other personnel necessary to carry out the provisions of this chapter, when in keeping with the adopted budget for the Portland Office of Emergency Management.
- B.** The Director may delegate to his or her staff members any of the Director's duties when the Director is not available or able to perform those duties.
- C.** The Assistant Director shall succeed to all duties and responsibilities of the Director, including those specified by ordinance, when the Assistant Director is serving as the acting Director.

Chapter 3.125

DISASTER POLICY COUNCIL

(New Chapter added by Ordinance
No. 178616, effective July 21, 2004.)

Sections:

- 3.125.010 Disaster Policy Council.
- 3.125.020 Powers and Duties.
- 3.125.030 Membership.
- 3.125.040 Staff Support to Disaster Policy Council.

3.125.010 Disaster Policy Council.

There is hereby created a Disaster Policy Council charged with providing policy oversight of integrated citywide emergency preparedness activities and initiatives.

3.125.020 Powers and Duties.

It shall be the duty of the Disaster Policy Council, and it is empowered, to review and recommend for adoption by the City Council, all emergency, disaster and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The Disaster Policy Council shall also be empowered to register volunteer disaster workers. The Disaster Policy Council shall meet biannually or upon call of the Mayor, or in his/her absence from the City or inability to call such a meeting, upon call of the vice chair.

3.125.030 Membership.

The Disaster Policy Council shall consist of the following members:

- A.** The Mayor, who shall be Chair;
- B.** Commissioner serving as President of the City Council, who shall be Vice Chair;
- C.** City Attorney;
- D.** Chief of Portland Police Bureau;
- E.** Chief of Portland Fire & Rescue;
- F.** Director, Portland Office of Emergency Management;
- G.** Director, Bureau of Emergency Communications;
- H.** Director, Portland Office of Transportation;
- I.** Director, Bureau of Maintenance;
- J.** Chief Administrative Officer;
- K.** Director of Human Resources;
- L.** Director, Bureau of Technology Services;
- M.** Director, Bureau of Development Services;
- N.** Director, Bureau of Environmental Services;
- O.** Director of Facilities Services;
- P.** Director, Bureau of Parks & Recreation; and

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Q. Director, Bureau of Water Works.

3.125.040 Staff Support to Disaster Policy Council.

The Portland Office of Emergency Management shall provide staff support to the Disaster Policy Council including meeting schedules, agendas and minutes.

Chapter 3.126

EMERGENCY MANAGEMENT COMMITTEE

(New Chapter added by Ordinance
No. 178616, effective July 21, 2004.)

Sections:

- 3.126.010 Powers and Duties of the Emergency Management Committee.
- 3.126.020 Emergency Management Committee Chair.
- 3.126.030 Membership.
- 3.126.040 Staff Support to Emergency Management Committee.

3.126.010 Powers and Duties of the Emergency Management Committee.

There is hereby created an Emergency Management Committee made up of designated bureau emergency coordinators charged with developing and, after approval by the Disaster Policy Council and City Council, as appropriate, implementing plans, programs and training exercises to promote integrated disaster response efforts. The Emergency Management Committee will provide operational direction for implementation of the programs and policies established by the Disaster Policy Council.

3.126.020 Emergency Management Committee Chair.

The Emergency Management Committee shall be chaired by the Director, Portland Office of Emergency Management, or in his/her absence by the Assistant Director, POEM. The Emergency Management Committee shall meet quarterly or upon call of the Chair, or in his/her absence from the City, upon call of the Assistant Director, POEM.

3.126.030 Membership.

The Emergency Management Committee shall consist of designated bureau emergency coordinators. Emergency coordinators shall be designated by bureau directors and shall be senior managers who are knowledgeable about their respective bureau mission and

operations. Bureau directors shall be responsible for notifying the Portland Office of Emergency Management if there is a change in their designated bureau emergency coordinator.

3.126.040 Staff Support to Emergency Management Committee.

The Portland Office of Emergency Management shall provide staff support to the Emergency Management Committee.

Chapter 3.127

Bureau of Portland Fire and Police Disability and Retirement

(Added by Ordinance No. 180690,
effective December 20, 2006.)

Sections:

- 3.127.010 Bureau of Portland Fire and Police Disability and Retirement.
- 3.127.020 Purpose.
- 3.127.030 Organization.
- 3.127.040 Director's Powers and Duties.
- 3.127.050 Staff and Delegation.

3.127.010 Bureau of Portland Fire and Police Disability and Retirement.

In conjunction with Chapter 5 of the Charter of the City of Portland, there is established by the City Council, the Bureau of Portland Fire and Police Disability and Retirement as a part of the Mayor's portfolio and charged with the implementation of Chapter 5 of the Charter.

3.127.020 Purpose.

The purpose of this office is to administer Chapter 5 of the Charter of the City of Portland. This purpose may be accomplished by direction from the Board of Trustees of the Fire and Police Disability and Retirement Fund ("FPDR") and in accordance with the provisions of Chapter 5 of the Charter of the City of Portland.

3.127.030 Organization.

The Bureau of Portland Fire and Police Disability and Retirement shall be directly responsible to its Board of Trustees and to the Mayor. Pursuant to Chapter 5 of the Charter, the FPDR Board shall have the powers listed in Section 5-202 of the Charter. Other bureaus may provide FPDR with necessary information and assistance in accordance with Chapter 5 of the Charter and include, but are not limited to, the Bureau of Fire, Rescue and Emergency Services, the Bureau of Police, and the Bureau of Human Resources.

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3.127.040 Administrator's Powers and Duties.

The Administrator of the Fire and Police Disability and Retirement Fund shall:

- A.** Be the Director of the Bureau of Portland Fire and Police Disability and Retirement, in accordance with Charter Chapter 5 Section 5-202;
- B.** Be responsible for administering the terms of the FPDR plan;
- C.** Serve as the principle administrator of the FPDR plan and have the power to initially approve or deny claims filed with the FPDR and to subsequently suspend, reduce or terminate benefits as provided in Charter Chapter 5;
- D.** Lead and direct the activities of the staff of the FPDR;
- E.** Oversee and direct other agents or advisers of the FPDR including actuaries and attorneys;
- F.** Be responsible for integrating disability, retirement, and return-to-work programs with other bureaus within the City where applicable; and
- G.** Review and propose amendments as necessary to the FPDR to conform to changes in federal or state law and, as appropriate, provide Council with the documentation necessary for its review and approval of the same.

3.127.050 Staff and Delegation.

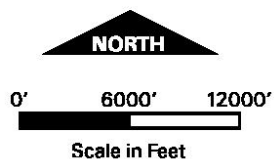
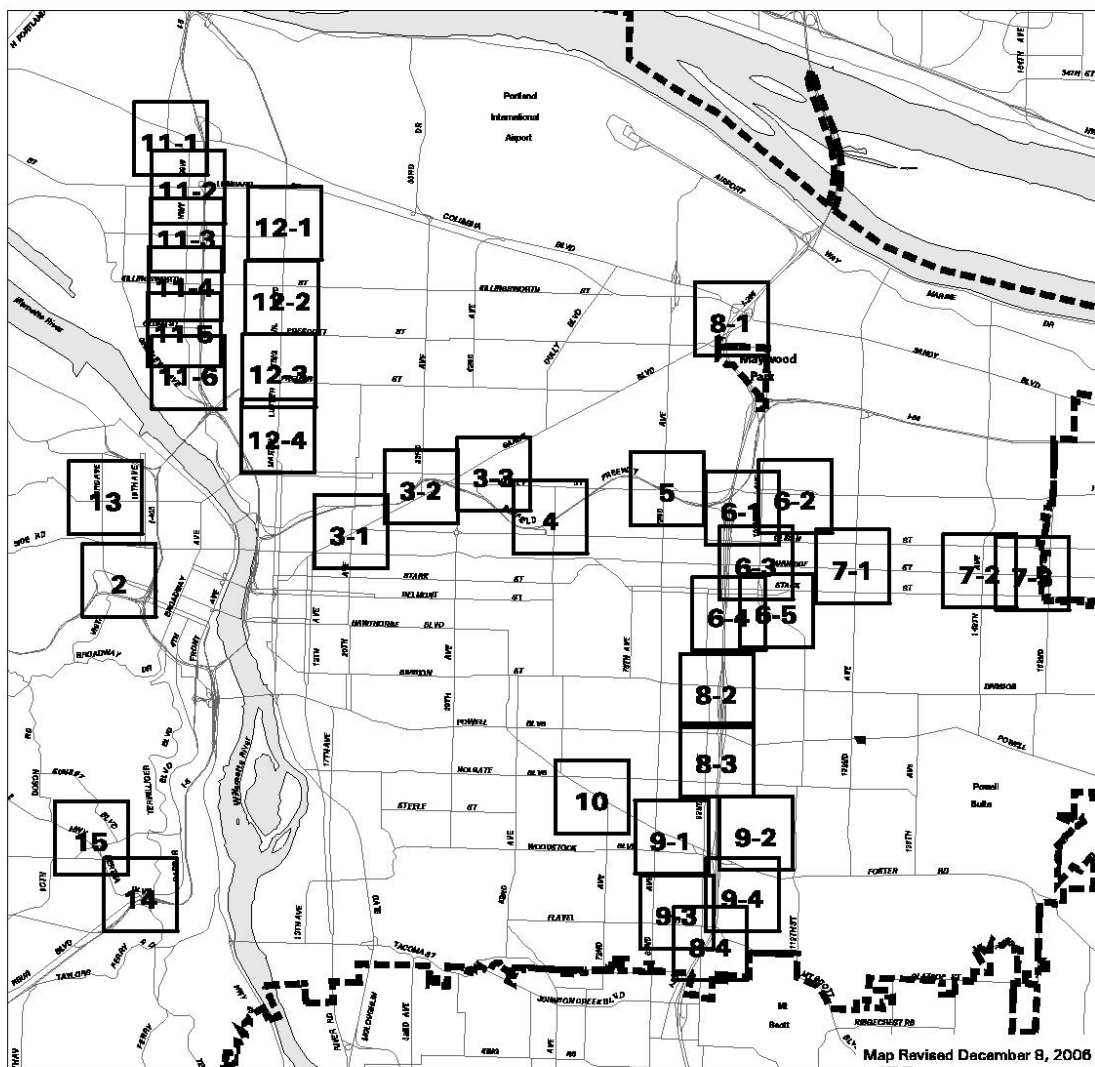
The Administrator may delegate to his or her staff members any of the Administrator's duties when the Administrator is not available or able to perform those duties.

POLICE ARREST DOCKET AND MUNICIPAL COURT TRANSCRIPT
City of Portland, Oregon
DEPARTMENT OF FINANCE AND ADMINISTRATION
Bureau of Police

<u>Name of Defendant</u>	<u>Address of Defendant</u>	<u>Arresting Officer</u>	<u>Complainant</u>	<u>Charge</u>	<u>Where</u>	<u>Age</u>
<u>Nativity</u>	<u>Occupation</u>	<u>Bail</u>	<u>Plea</u>	<u>Fine</u>	<u>Days</u>	<u>Remarks</u>

FIGURE 1 - (Section 3.20.130)

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Map 3.103-1 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Index Map

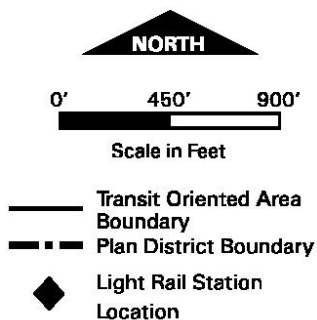
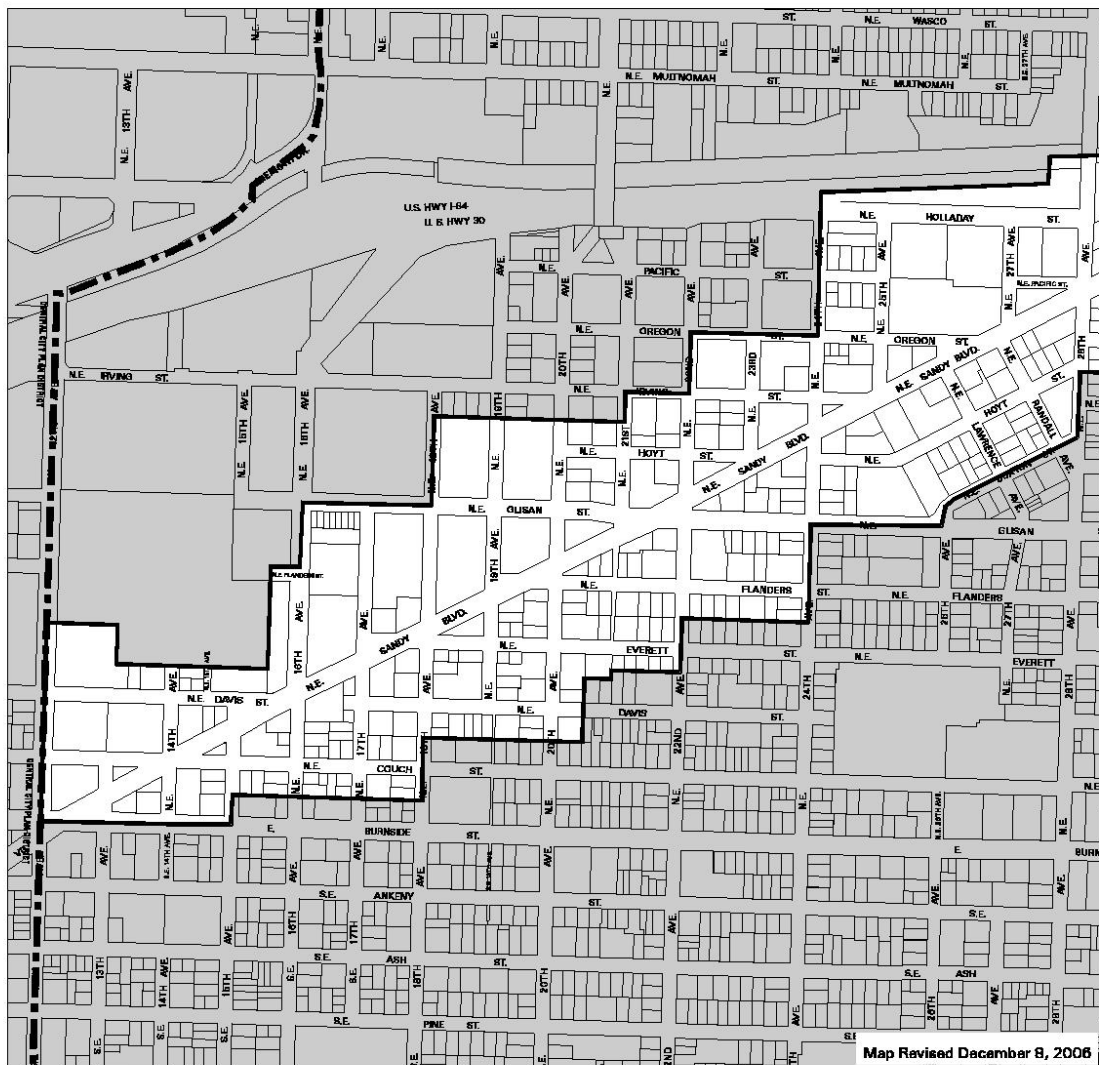
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Goose Hollow Light Rail Station Areas

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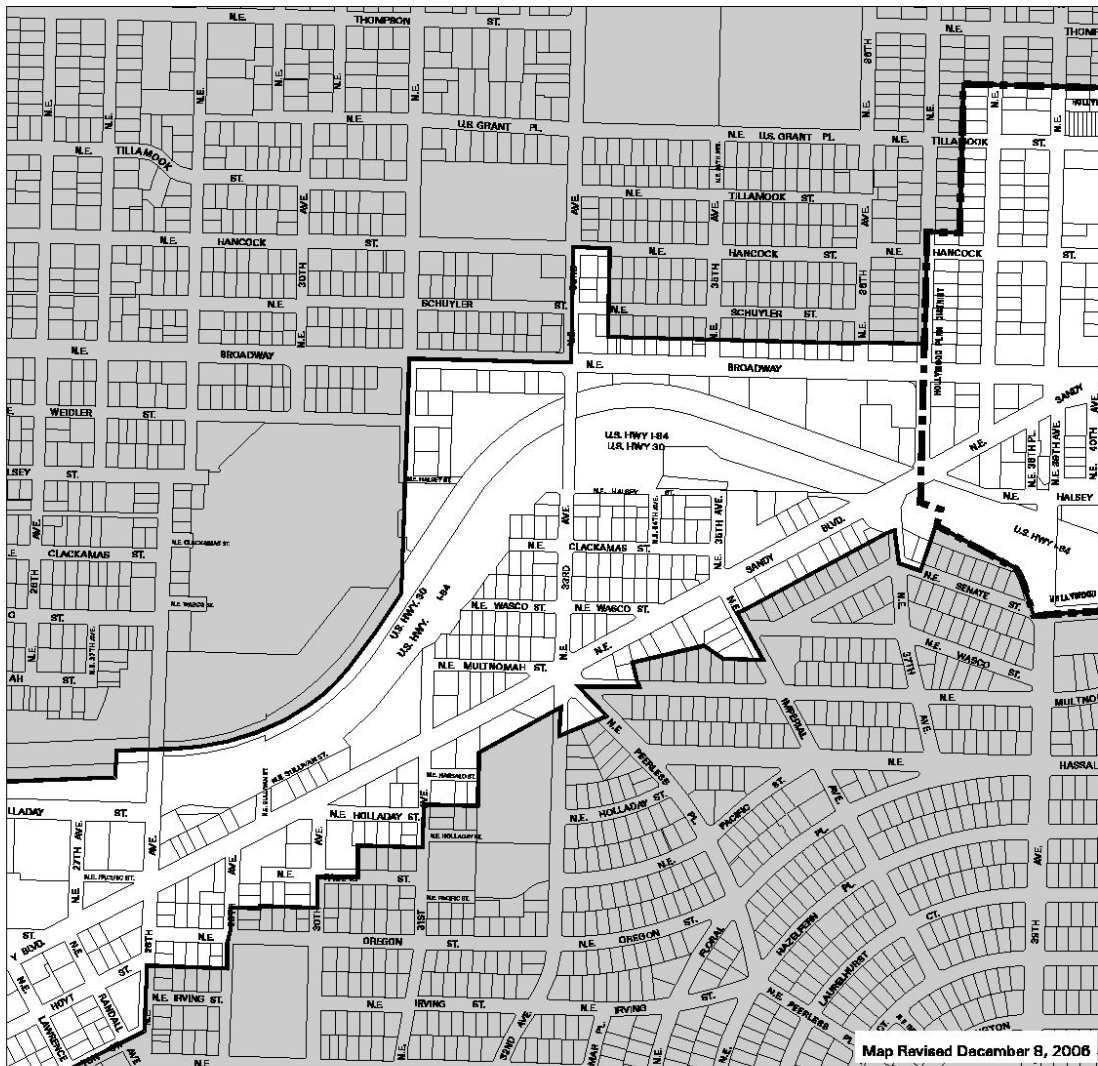


Map 3.103-3 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

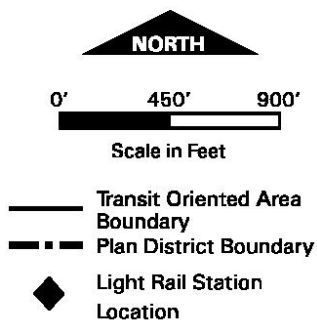
Hollywood Light Rail Station Area & Transit Oriented
Areas along Sandy Boulevard & Broadway Main Street

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Map Revised December 8, 2006



Map 3.103-3 **Property Tax Exemption for** **New Transit Supportive Residential** **or Mixed Use Development**

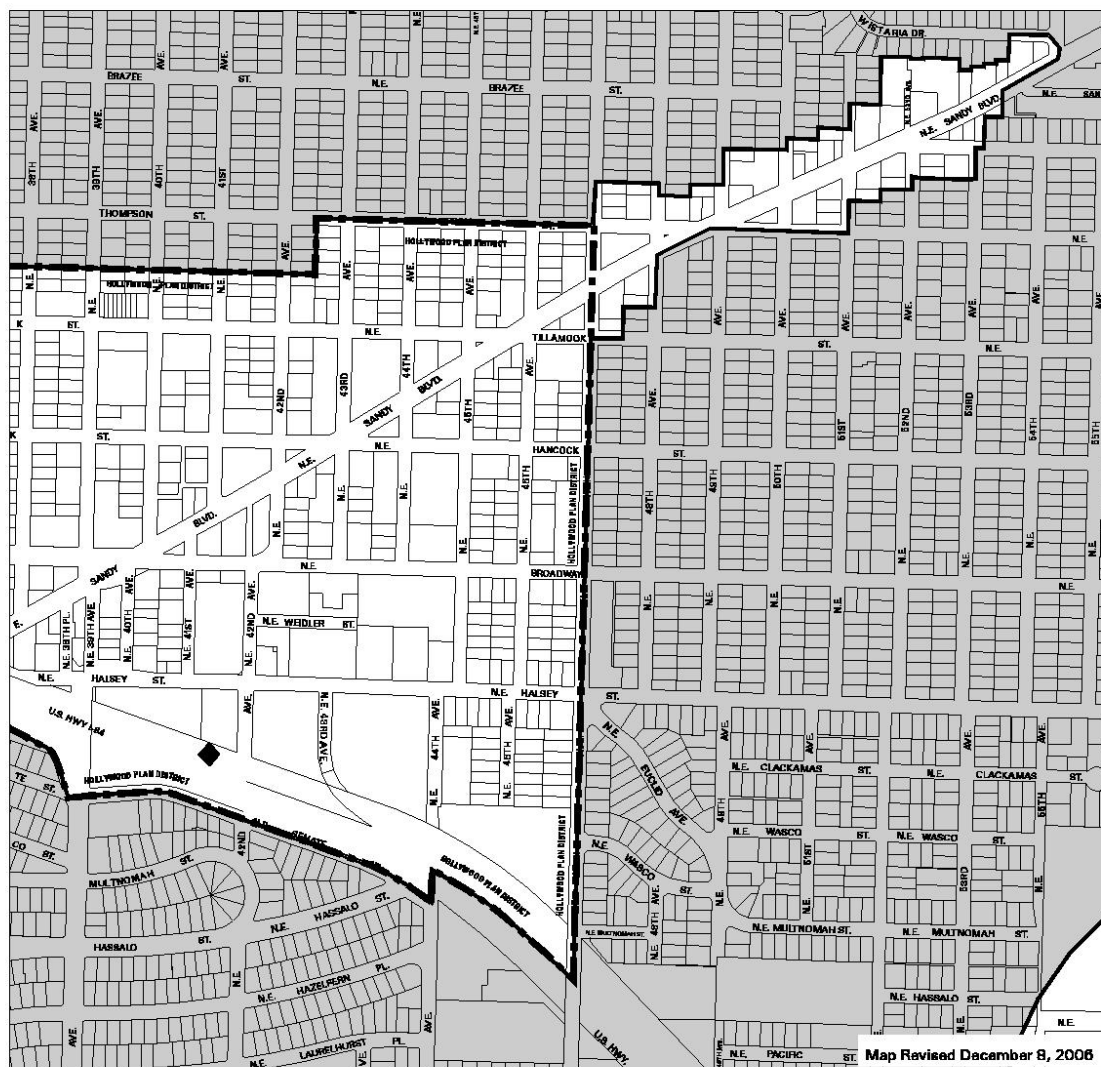
Hollywood Light Rail Station Area & Transit Oriented
Areas along Sandy Boulevard & Broadway Main Street

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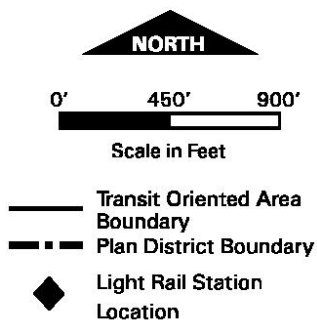
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Map Revised December 8, 2006

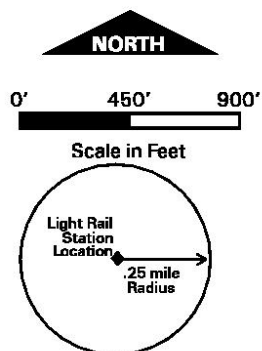


Map 3.103-3
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development

Hollywood Light Rail Station Area & Transit Oriented Areas along Sandy Boulevard & Broadway Main Street

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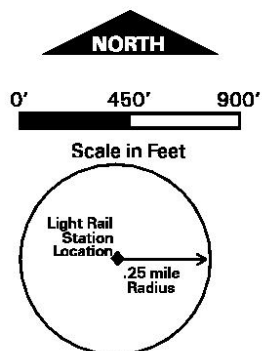
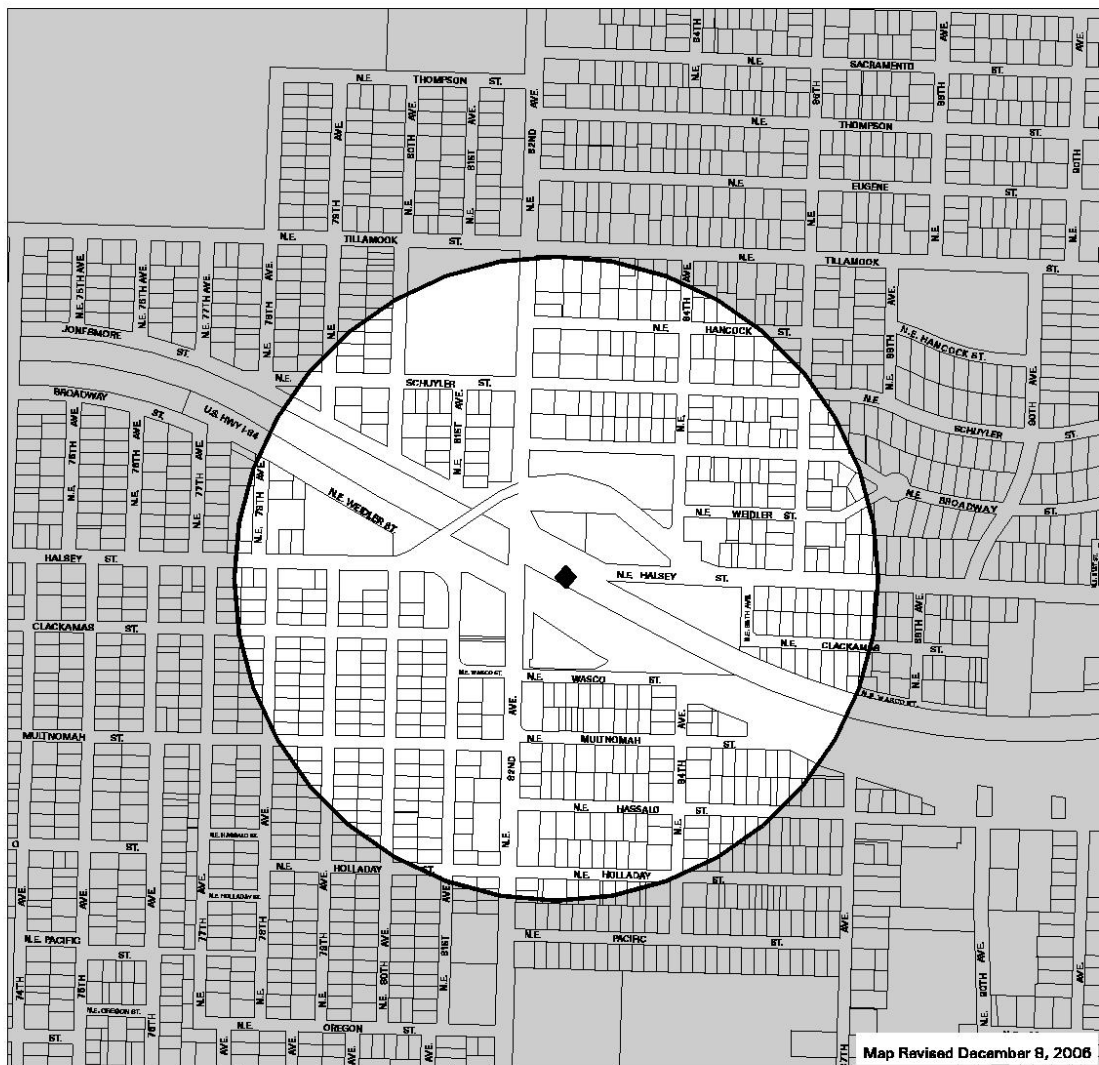


Map 3.103-4 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

60th Avenue Light Rail Station Area

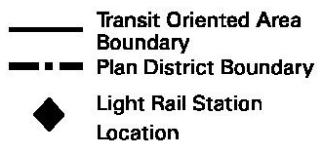
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**Map 3.103-5
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development
82nd Avenue Light Rail Station Area**

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Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

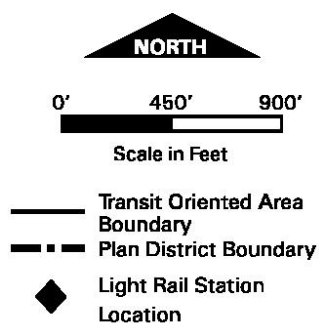
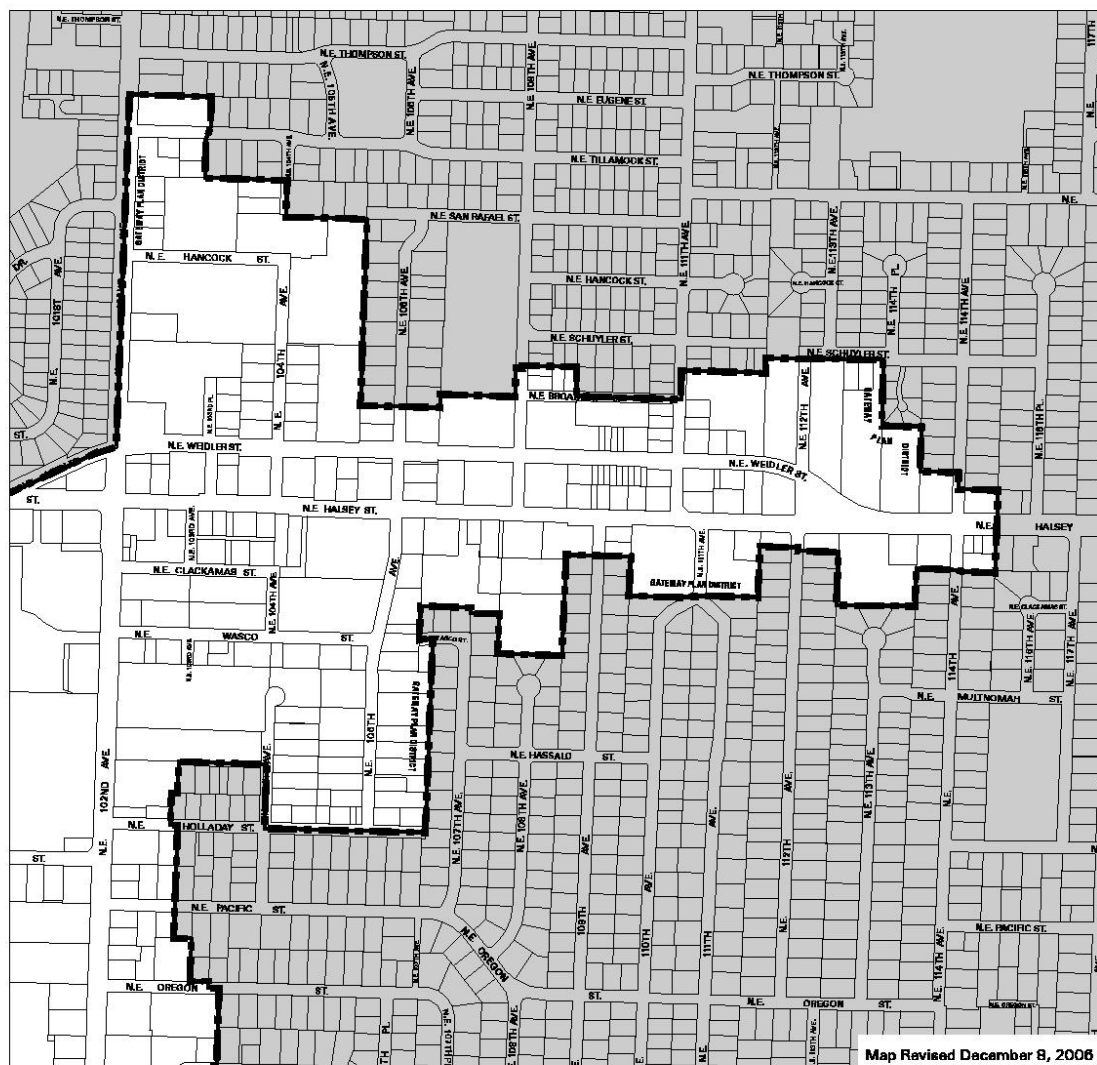
Gateway Plan District and Light Rail Station Areas

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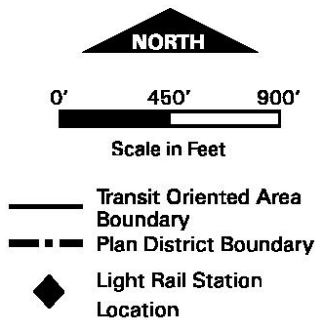
Map 3.103-6
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development

Gateway Plan District and Light Rail Station Areas

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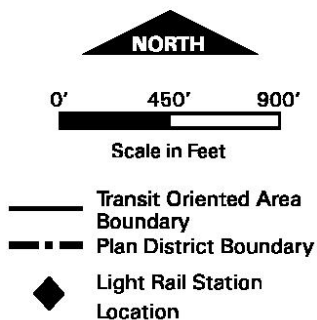
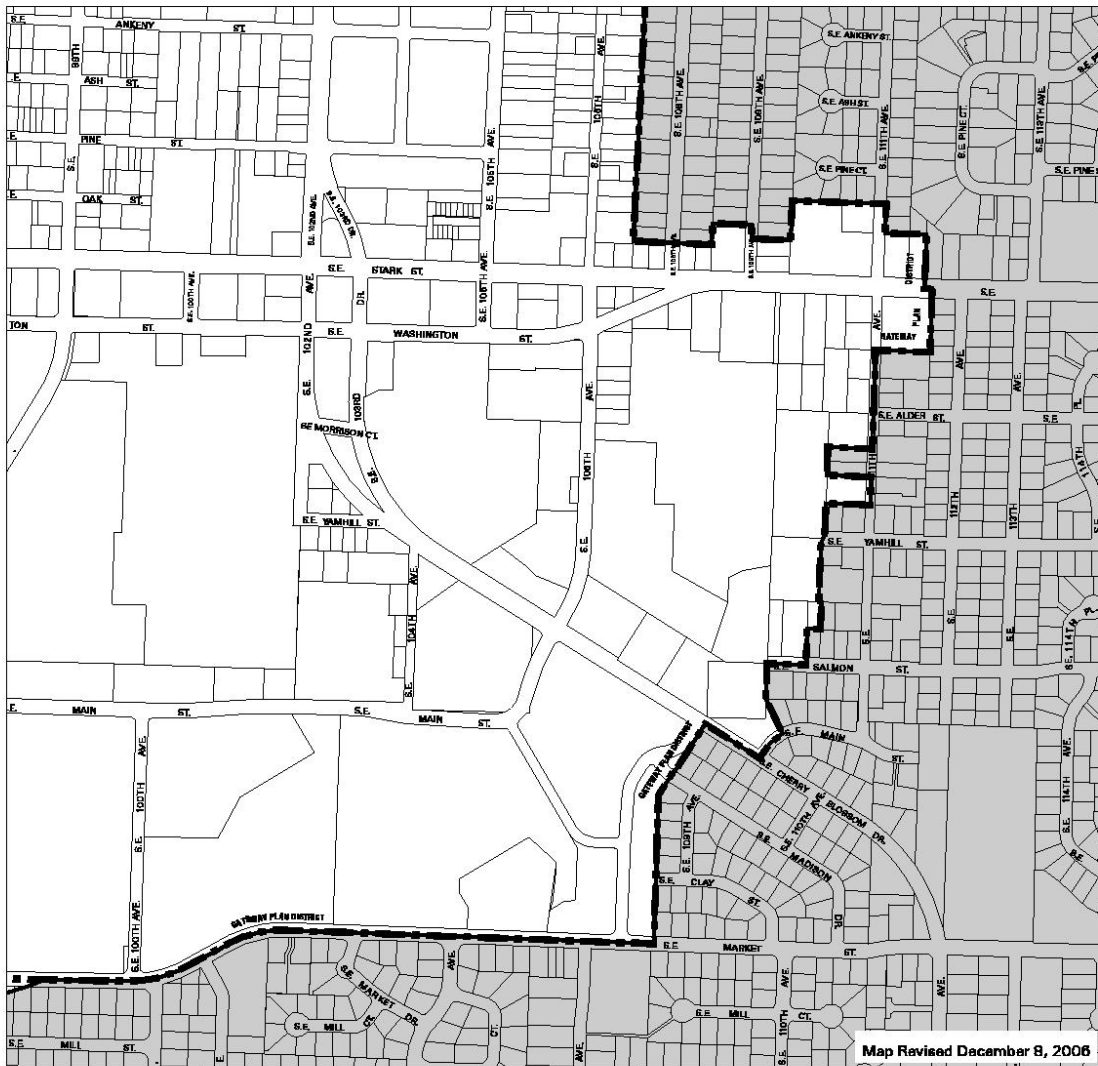


**Map 3.103-6
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development**

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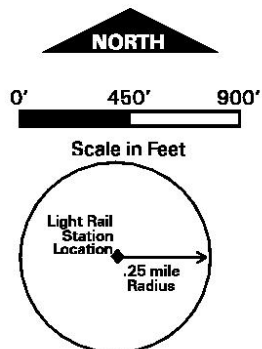
Map 3.103-6 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Gateway Plan District and Light Rail Station Areas

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**Map 3.103-7
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development**

**Light Rail Station Areas
East of Gateway Plan District**

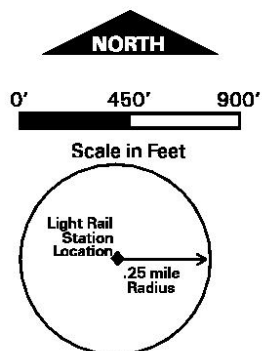
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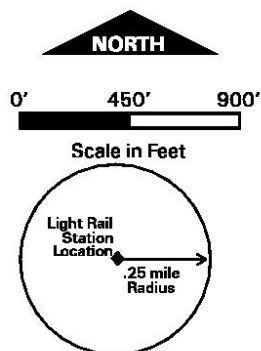


**Map 3.103-7
Property Tax Exemption for
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or Mixed Use Development**

**Light Rail Station Areas
East of Gateway Plan District**

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Map 3.103-8 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

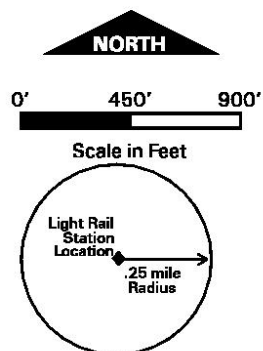
I-205 Light Rail Stations Areas

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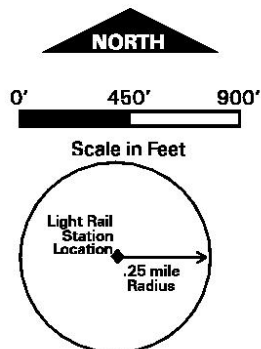


Map 3.103-8
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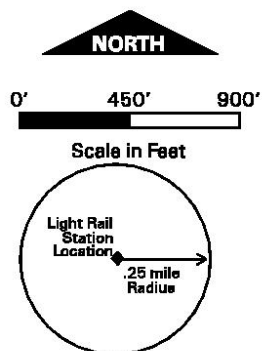
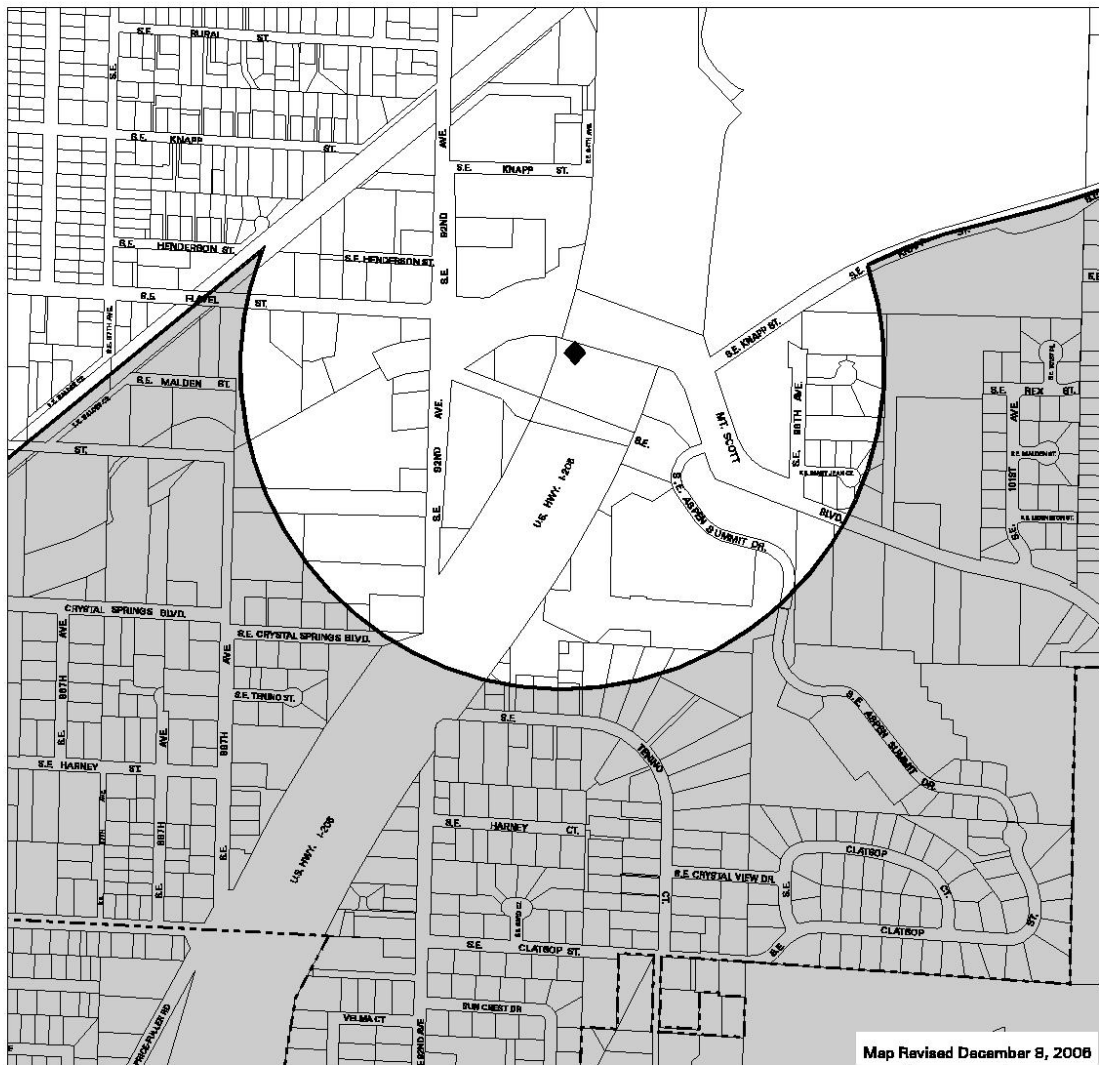
Map 3.103-8 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

I-205 Light Rail Stations Areas

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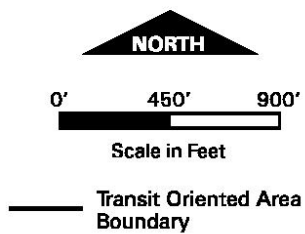
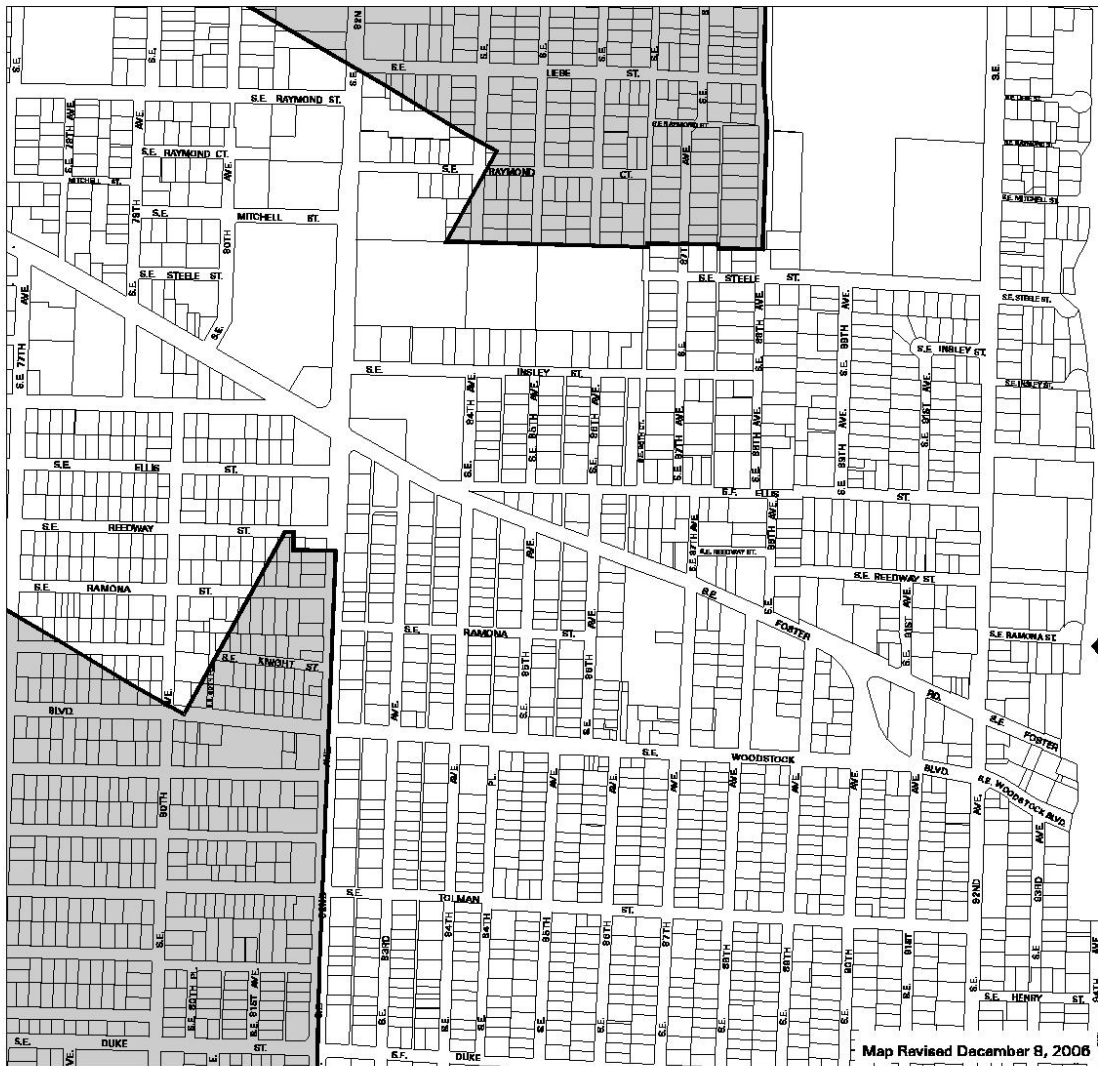


**Map 3.103-8
Property Tax Exemption for
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I-205 Light Rail Stations Areas

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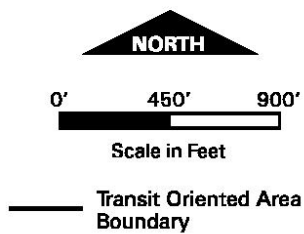


Map 3.103-9
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development

Lents Town Center

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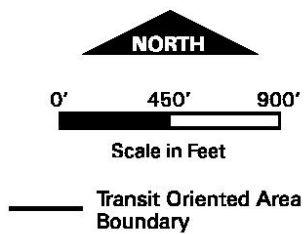


Map 3.103-9 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

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Map 3.103-9
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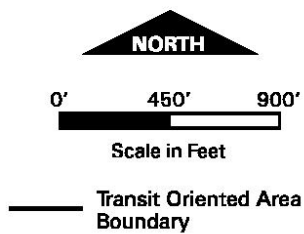
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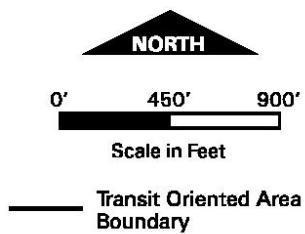


Map 3.103-9
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Lents Town Center

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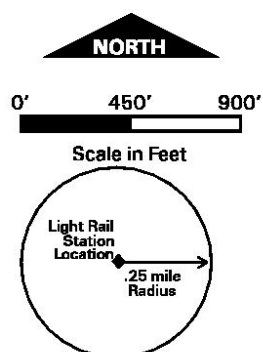
Map 3.103-10 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Transit Oriented Areas along
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Map 3.103-11
Property Tax Exemption for
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Interstate Corridor Light Rail Station Areas

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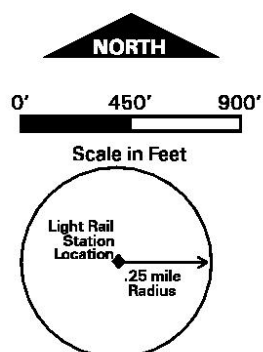


Interstate Corridor Light Rail Station Areas

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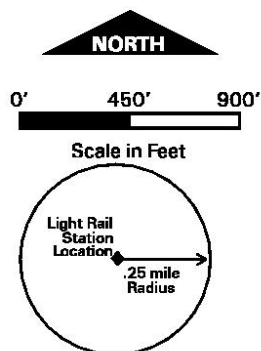
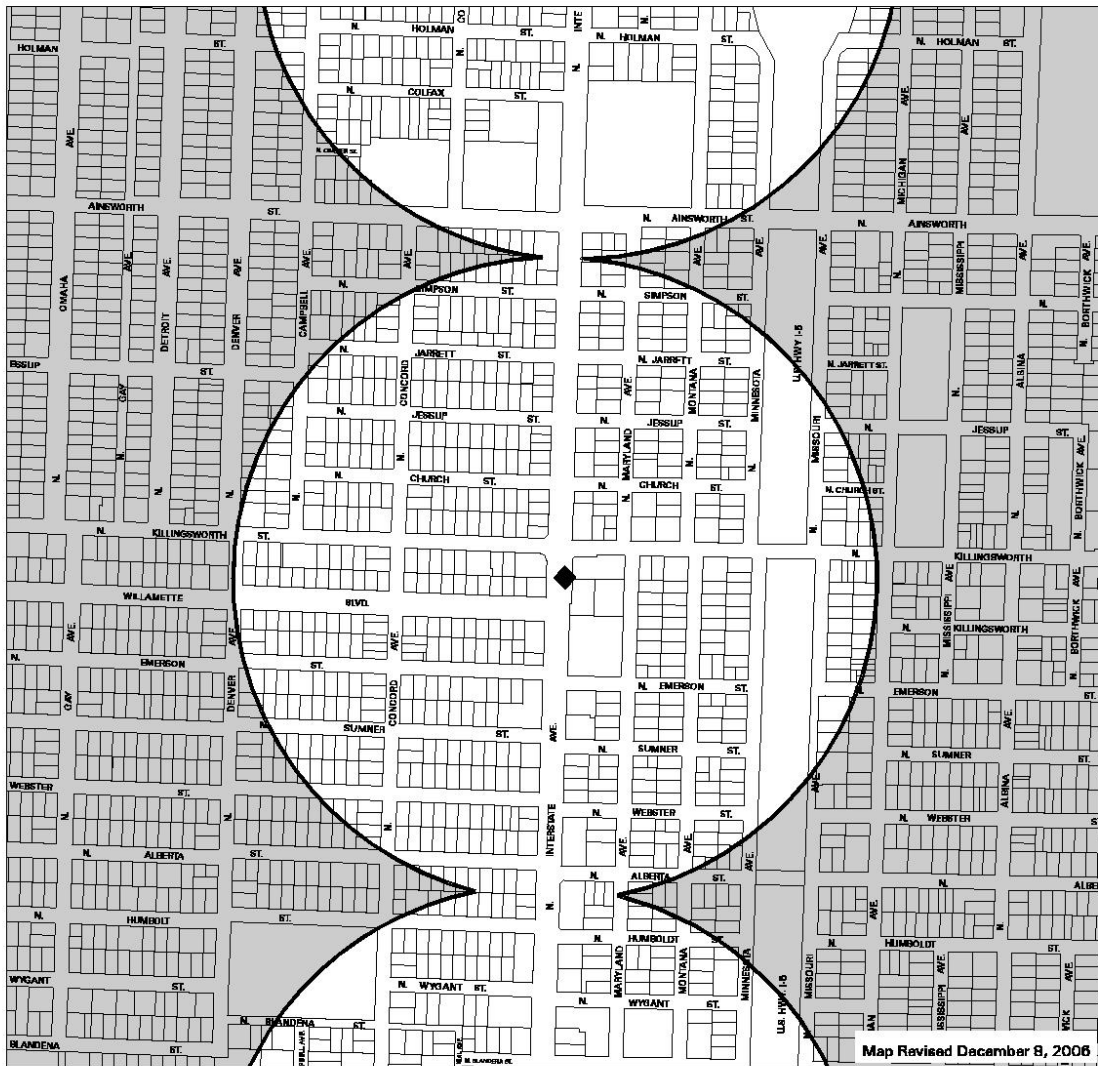
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Map 3.103-11
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development
Interstate Corridor Light Rail Station Areas

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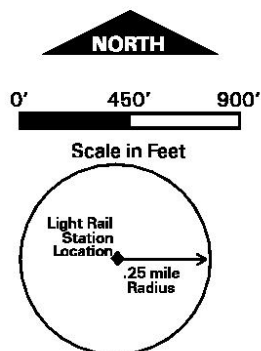
Map 3.103-11

Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Interstate Corridor Light Rail Station Areas

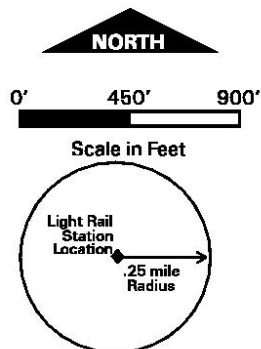
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Map 3.103-11 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development Interstate Corridor Light Rail Station Areas

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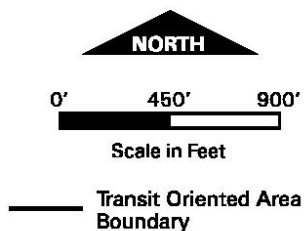
Map 3.103-11

Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Interstate Corridor Light Rail Station Areas

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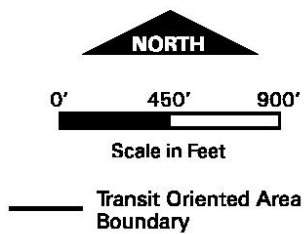
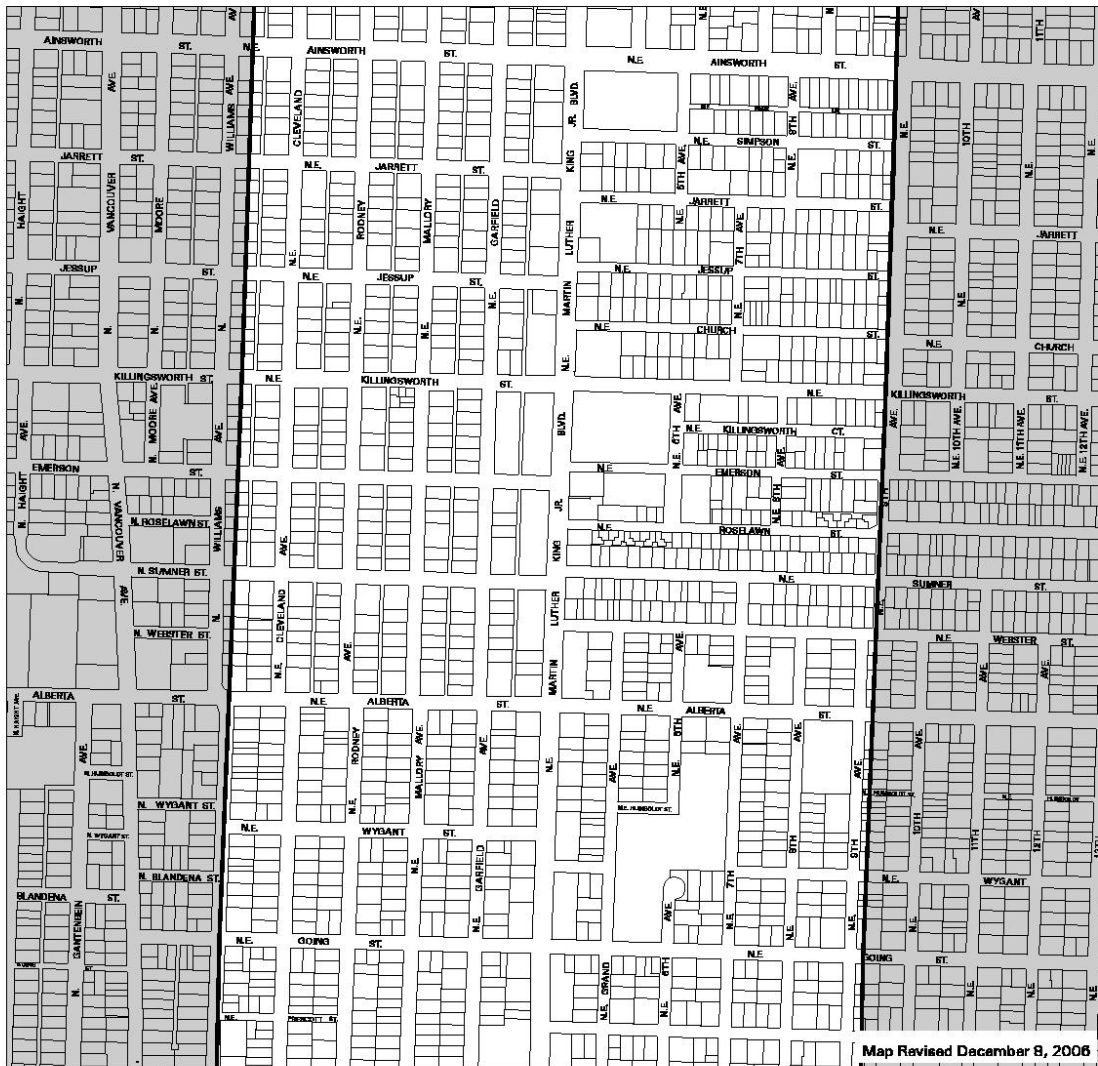


Map 3.103-12 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Transit Oriented Areas along NE Martin Luther King Jr. Blvd. Main Street

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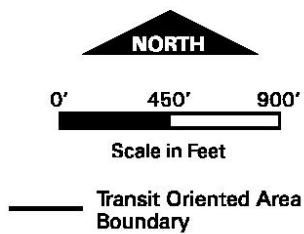
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Transit Oriented Areas along
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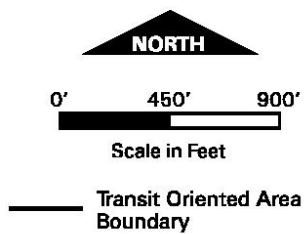
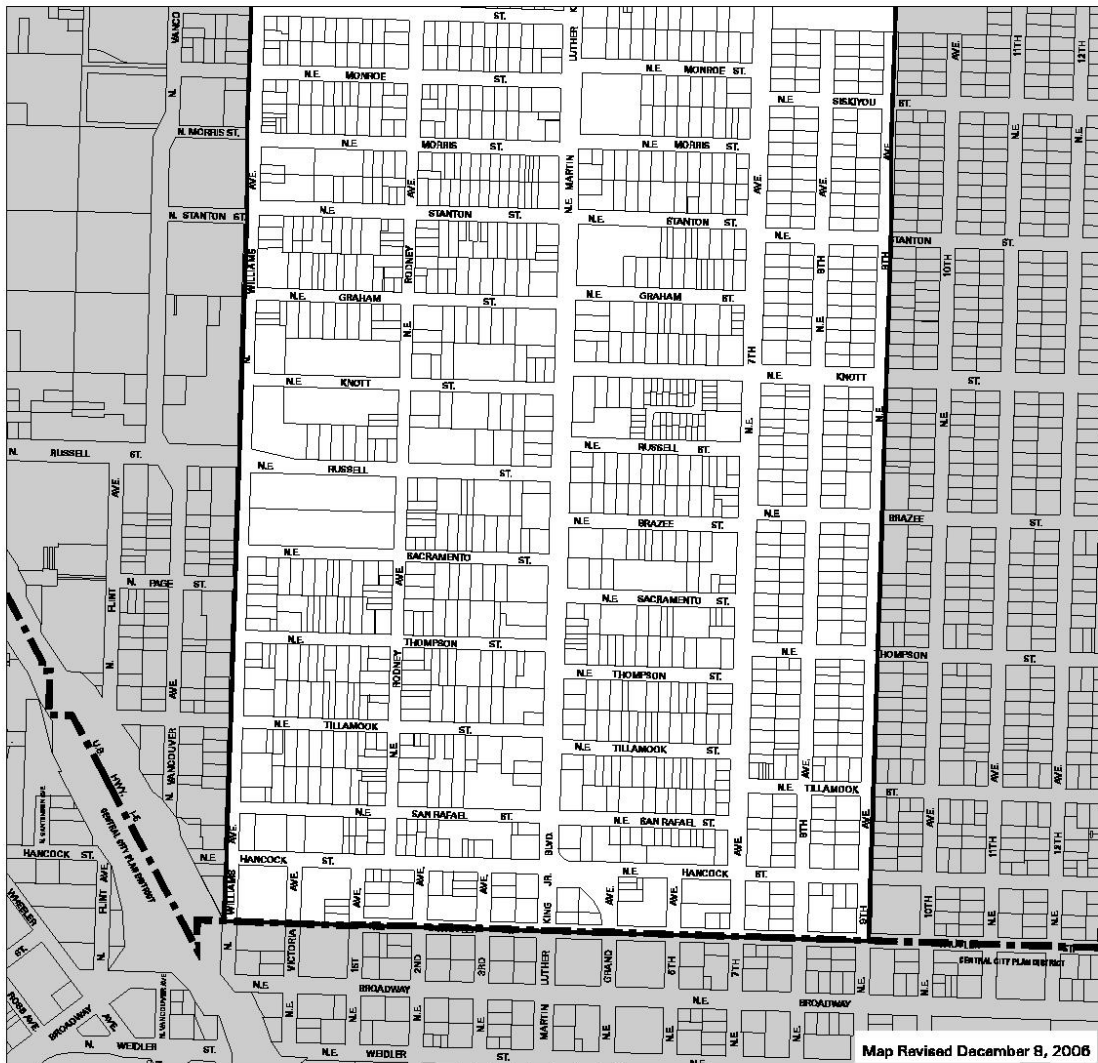


Map 3.103-12 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Transit Oriented Areas along
NE Martin Luther King Jr. Blvd. Main Street

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Map 3.103-12 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

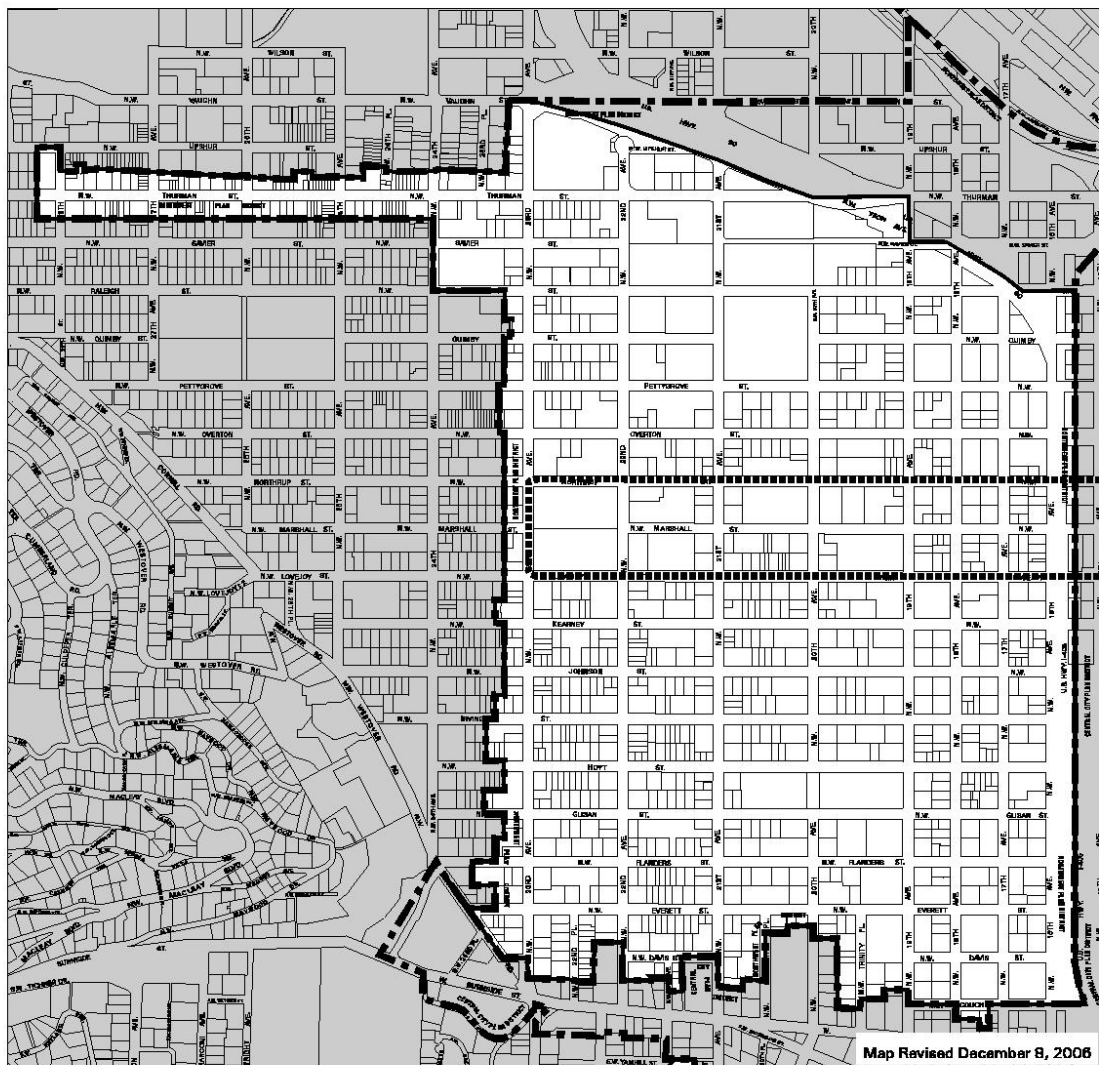
Transit Oriented Areas along
NE Martin Luther King Jr. Blvd. Main Street

Map 4 of 4

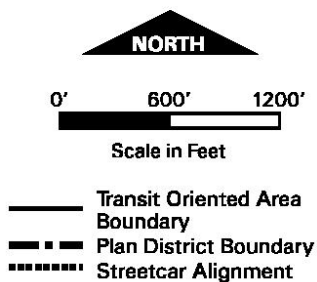
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TITLE 3

ADMINISTRATION



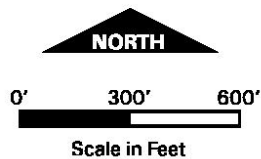
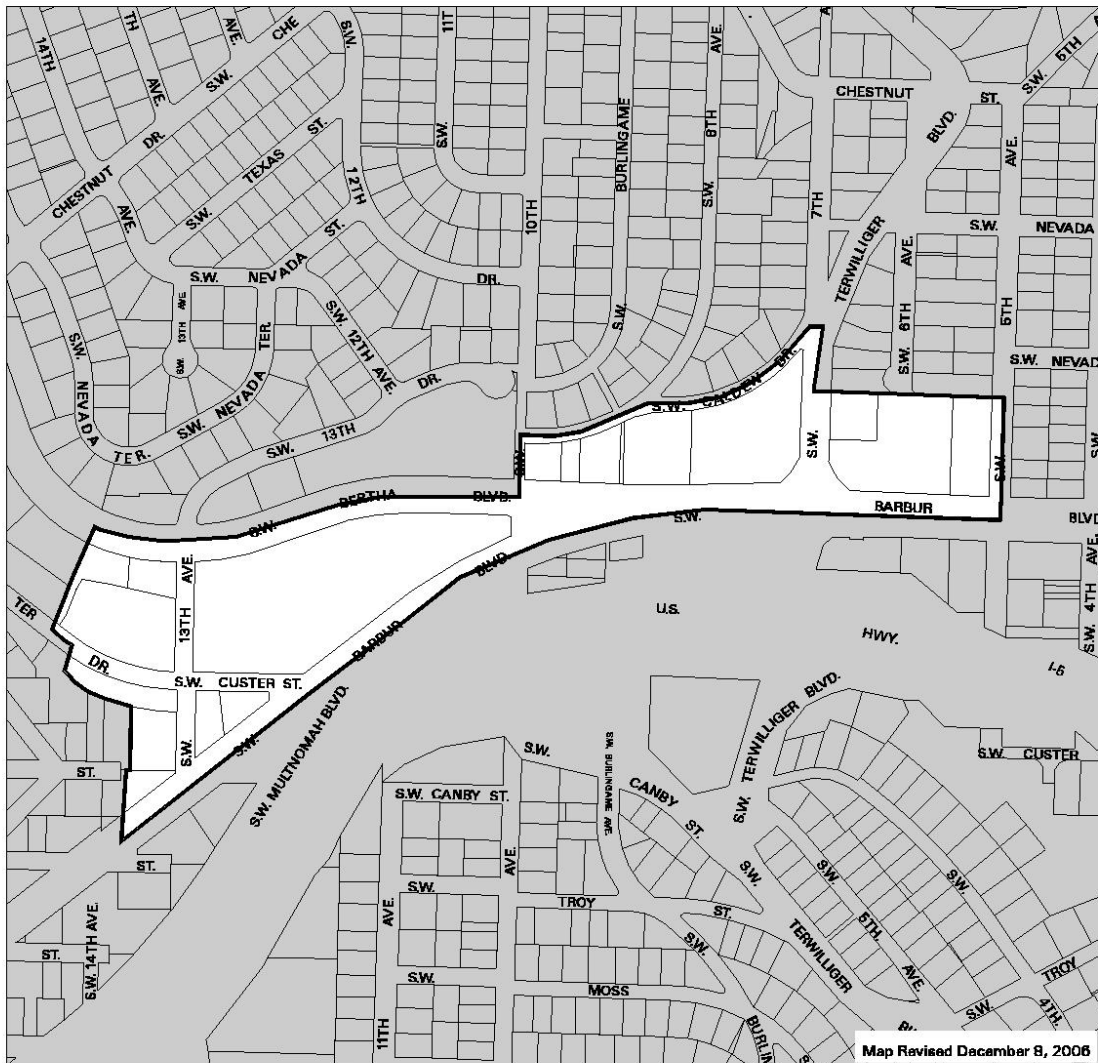
Map Revised December 8, 2006



Map 3.103-13
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development

Northwest Plan District

Bureau of Planning • City of Portland, Oregon



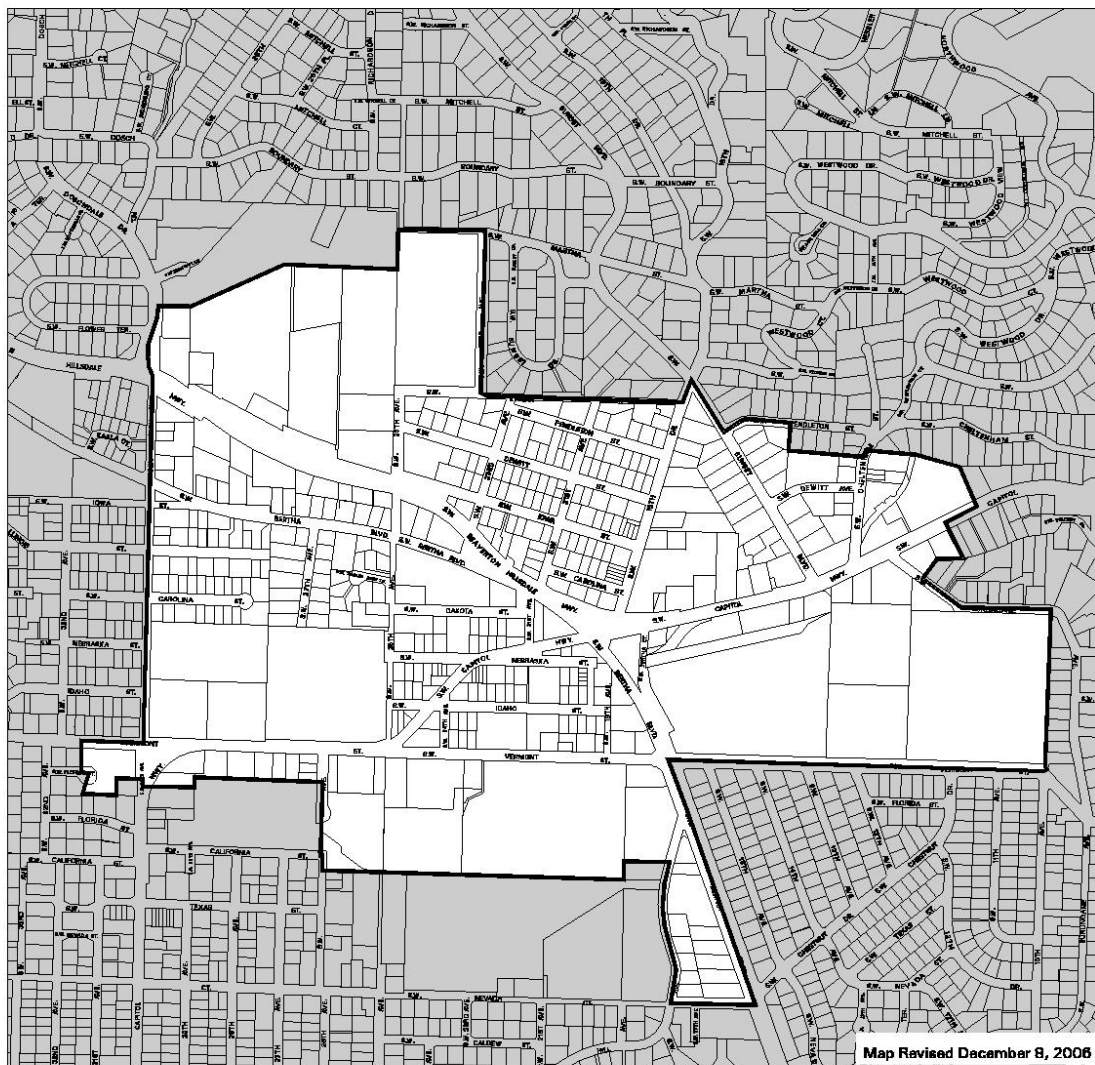
Map 3.103-14
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development

Transit Oriented Areas around
SW Barbur and Terwilliger Boulevards

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TITLE 3

ADMINISTRATION



NORTH

0' 600' 1200'

Scale in Feet

Map 3.103-15
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development

Hillsdale Town Center

Bureau of Planning • City of Portland, Oregon

TITLE 7 BUSINESS LICENSES

Chapter 7.02

BUSINESS LICENSE LAW

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7.02.010	Fees for Revenue.
7.02.020	Conformity to State Income Tax Laws.
7.02.100	Definitions.
7.02.110	Income Defined.
7.02.200	Administration.
7.02.210	Administrative Authority.
7.02.220	Presumption of Doing Business.
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7.02.620	Changes to Federal and/or State Tax Returns.
7.02.630	Income - Long Term Construction Method.
7.02.700	Penalties.
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7.02.715	Payments Applied.

- 7.02.720 Interest on Refunds.
- 7.02.730 Criminal Penalties for Violation of the Business License Law by City Official, Employee or Agent.
- 7.02.800 Refundable Credit.
- 7.02.810 Credits Issued.
- 7.02.820 Obligations of Participating Businesses.
- 7.02.830 Collection and Remittance of Donations to “Work for Art,” a program of the Regional Arts & Culture Council.

Chapter 7.12

PUBLIC SERVICE PERMITS, FRANCHISES AND REGULATIONS

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- 7.12.070 Privilege Tax Applicable to Other Cases.
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- 7.12.090 Time of Payment of Tax.
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- 7.12.220 Depreciation Accounts of Public Utilities.

Chapter 7.14

PUBLIC UTILITIES

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- 7.14.020 Definitions.
- 7.14.030 Application - Issuance.
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Chapter 7.24

TOWING AND PAY AND PARK FACILITIES

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REGULATION OF PAYDAY LENDING

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- 7.26.020 Definitions
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Chapter 7.02

BUSINESS LICENSE LAW

(New Chapter substituted by
Ordinance No. 166676, effective
Dec. 31, 1993.)

Sections:

7.02.005	Short Title.
7.02.010	Fees for Revenue.
7.02.020	Conformity to State Income Tax Laws.
7.02.100	Definitions.
7.02.110	Income Defined.
7.02.200	Administration.
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7.02.220	Presumption of Doing Business.
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7.02.400	Exemptions.
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7.02.550	Presumptive Fee.
7.02.560	Payment Plan Fee.
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7.02.610	Apportionment of Income.

TITLE 7

BUSINESS LICENSES

- 7.02.620 Changes to Federal and/or State Tax Returns.
- 7.02.630 Income - Long Term Construction Method.
- 7.02.700 Penalties.
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- 7.02.730 Criminal Penalties for Violation of the Business License Law by City Official, Employee or Agent.
- 7.02.800 Refundable Credit.
- 7.02.810 Credits Issued.
- 7.02.820 Obligations of Participating Businesses.
- 7.02.830 Collection and Remittance of Donations to “Work for Art,” a program of the Regional Arts & Culture Council.

7.02.005 Short Title.

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

7.02.010 Fees for Revenue.

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

7.02.020 Conformity to State Income Tax Laws.

(Amended by Ordinance No. 171910, effective January 30, 1998.) The Business License Law shall be construed in conformity with the laws and regulations of the State of Oregon imposing taxes on or measured by net income. Any reference in this Chapter to the laws of the State of Oregon means the laws of the State of Oregon imposing taxes on or measured by net income as they are amended on or before December 31, 1997. The Bureau shall have the authority by administrative rule(s) adopted in accordance with Section 7.02.210, to connect to and/or disconnect from any legislative enactment that deals with income or excise taxation or the definition of net income. Should a question arise under the Business License Law on which this Chapter is silent, the Bureau may look to the laws of the State of Oregon for guidance in resolving the question, provided that the determination under State law is not in conflict with any provision of this Chapter or the State law is otherwise inapplicable.

7.02.100 Definitions.

(Amended by Ordinance Nos. 171910 and 178906, effective December 24, 2004.) For the purpose of this Chapter, the terms used in this Chapter shall be defined as provided in this Chapter or in Administrative Rules adopted under Section 7.02.210, unless the context requires otherwise:

TITLE 7
BUSINESS LICENSES

- D.** Credit certificates can only be used in the tax year in which they are claimed and cannot be used in any other tax year.
- E.** For the 2005 tax year, only hours worked after June 30, 2005 may be counted towards the 300 hour minimum requirement.
- F.** Businesses cannot count reimbursable or otherwise subsidized hours (wages) toward the 300 hours.
- G.** A business may claim a credit for the same disconnected youth in successive tax years, provided that the youth works the required minimum 300 hours in each tax year.
- H.** The 300 hour requirement must be completed during the business' fiscal tax year rather than the calendar year.

7.02.820 Obligations of Participating Businesses.

(Added by Ordinance No. 179739, effective December 9, 2005.) To be eligible to receive a refundable credit and participate in the program, a local business must do each of the following:

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

7.02.830 Collection and Remittance of Donations to “Work for Art,” a program of the Regional Arts & Culture Council.

(Added by Ordinance No. 180629, effective December 29, 2006.) The Revenue Bureau is authorized to collect and remit donations from taxpayers to “Work for Art,” a program of the Regional Arts & Culture Council.

- A.** Taxpayers may donate to “Work for Art” by either

TITLE 7
BUSINESS LICENSES

1. paying a sum above what is owed for their City Business License fees, or
 2. by designating that all or some of any refund due to them be instead donated to “Work for Art.”
- B.** To indicate a desire to donate, the taxpayer must check the appropriate donation box on their renewal return form (tax return) for the tax year in question. In addition, the taxpayer must indicate the amount that is to be donated.
- C.** Once the renewal return form (tax return) is filed with the Bureau, the taxpayer may not cancel the donation or request that it be instead credited to any other outstanding receivable owed to the Bureau.

Chapter 7.04

ADMINISTRATION

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

Chapter 7.06

LICENSE REQUIREMENTS & APPLICATIONS

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

Chapter 7.08

LICENSE FEES

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

Chapter 7.10

VIOLATIONS

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

Chapter 14A.50

**CONDUCT PROHIBITED
ON PUBLIC PROPERTY**

Sections:

- 14A.50.010 Alcohol on Public Property and Public Rights of Way.
- 14A.50.020 Camping Prohibited on Public Property and Public Rights of Way.
- 14A.50.030 Obstructions as Nuisances.
- 14A.50.035 Pedestrians.
- 14A.50.040 Conducting Business on City Property or Public Rights of Way.
- 14A.50.050 Erecting Permanent or Temporary Structures on Public Property or Public Rights of Way.
- 14A.50.060 Resale of Tickets to Events at Municipal Facilities at Premium Price Prohibited
- 14A.50.070 Misuse of Public Property.
- 14A.50.110 Misuse of a Public Restroom.
- 14A.50.120 Misuse of Public Drinking Fountain.
- 14A.50.130 Misuse of Reservoirs.

14A.50.010 Alcohol on Public Property and Public Rights of Way.

- A.** It is unlawful for any person to drink alcoholic liquor upon any street, sidewalk, or other public right of way.
- B.** It is unlawful for any person to have in his possession while upon any street, sidewalk, or other public right-of-way any bottle, can, or other receptacle containing any alcoholic liquor which has been opened or a seal broken or the contents of which have been partially removed.
- C.** This Section does not apply to prohibit the consumption of alcoholic liquor in sidewalk cafes which have been issued permits under Chapter 17.25 of this Code.

14A.50.020 Camping Prohibited on Public Property and Public Rights of Way.

- A.** As used in this Section:
 - 1.** "To camp" means to set up, or to remain in or at a campsite, for the purpose of establishing or maintaining a temporary place to live.

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General Provisions and Private Citizens

2. "Campsite" means any place where any bedding, sleeping bag, or other sleeping matter, or any stove or fire is placed, established, or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.
- B.** It is unlawful for any person to camp in or upon any public property or public right of way, unless otherwise specifically authorized by this Code or by declaration by the Mayor in emergency circumstances.
- C.** The violation of this Section is punishable, upon conviction, by a fine of not more than \$100 or by imprisonment for a period not to exceed 30 days or both.

14A.50.030 Obstructions as Nuisances.

(Replaced by Ordinance No. 178958; amended by Ordinance Nos. 180194 and 180600, effective November 22, 2006.)

- A.** Unless specifically authorized by ordinance or permit, a person commits the offense of sidewalk obstruction if, in the area bounded by the Willamette River, Interstate 5 and Interstate 405, the person:
1. sits, kneels or creates a trip hazard or obstruction in the through pedestrian zone of a sidewalk;
 2. sits, kneels or creates a trip hazard or obstruction on any part of sidewalks on the bus mall;
 3. sits, kneels or creates a trip hazard or obstruction less than 18 feet from a corner as measured from the intersection of the extended curb lines;
 4. sits, kneels or creates a trip hazard or obstruction on any part of the same sidewalk as a MAX stop;
 5. creates a trip hazard or obstruction between 7:00 a.m. and 7:00 p.m. on any frontage or furnishing zone;
 6. stands as part of a stationary group of three or more persons in a through pedestrian zone;
 7. leans against a structure or thing, sits on a structure or a ledge which is elevated above the sidewalk surface, or on a step, and thereby reduces the through pedestrian zone of a sidewalk to a width less than eight feet on a fifteen-foot sidewalk, or to less than six feet on narrower sidewalks; or

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General Provisions and Private Citizens

8. without using the sidewalk facility or amenity for its principal purpose, blocks pedestrian access to the function provided by an information kiosk, water fountain, parking pay center, food cart, trash can, curb cut, ramp, bench, paper box, display window, service window or pedestrian walk signal switch.
- B.** The provisions of Subsection 14A.50.030 A. do not apply when
1. they are waived by permit;
 2. the person is in line waiting for goods or services unless the person creates a trip hazard or obstacle that is unlawful under Subsection 14A.50.030 A., or refuses to comply with an order of a peace officer, the City Engineer, or the City Traffic Engineer to form the line in a way that moderates the impact of the line on passage along the through pedestrian zone;
 3. the person violates the section due to reasons beyond the person's control;
 4. the person is covered by, and complying with, the Street Musician Partnership Agreement.
- C.** Subsections 14A.50.030 A.6, A.7., and A.8. do not apply to a person who is part of an assembly that has formed to participate in or observe an expressive event if the assembly has lasted less than eight hours, unless the person refuses to comply with a reasonable order of a peace officer, the City Engineer or the City Traffic Engineer to move so as to moderate the impact of the assembly on passage along the through pedestrian zone.
- D.** This Section does not apply unless a person has received a warning in the last seven days that a behavior violated the restrictions in this section. The warning must have described the unlawful behavior, but need not be location-specific.
- E.** An obstruction or trip hazard that is unlawful under this Section is hereby declared to be a public nuisance. The City Engineer, the City Traffic Engineer, or the Chief of Police may summarily abate any such obstruction or trip hazard, or it may be abated as set forth in Chapter 29.20
- F.** The provisions of this Section do not apply to merchandise in course of receipt or delivery, unless that merchandise is permitted to remain upon a street or sidewalk for a period longer than 2 hours. The vehicle in which merchandise is delivered is subject to all parking regulations as described in Title 16.

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G. The following definitions apply to this Section:

- 1.** A trip hazard is any object, including any thing or animal, that extends to, or occupies space, more than a half-inch above a sidewalk surface but does not include objects used to move, carry or guide an object, thing or animal in a through pedestrian zone or an object that is entirely outside the through pedestrian zone and within two feet of a person who is capable of moving or controlling the object to accommodate the needs of other sidewalk users. Legs extended from a seated person are a trip hazard, but a person who sits or kneels with legs drawn up to the body does not constitute a trip hazard.
- 2.** An obstruction includes any object, including any thing or animal, that prevents pedestrian or vehicular traffic from traveling over the surface on which it rests, or over which it extends, but does not include objects being carried, moved or guided in a through pedestrian zone or objects that are entirely outside the through pedestrian zone and within two feet of a person who is capable of moving or controlling the object to accommodate the needs of other sidewalk users. Legs extended from a seated person are an obstruction, but a person who sits with legs drawn up to the body does not constitute an obstruction.
- 3.** As described in the City of Portland Pedestrian Design Guide, the through pedestrian zone of a sidewalk is the area designed for unimpeded pedestrian travel along the length of a sidewalk, typically aligned between the furnishing and frontage zones, consisting of an area free of temporary and permanent objects and, when possible, eight feet wide on a fifteen-foot-wide sidewalk, six feet wide on a twelve-foot-wide sidewalk, and five feet wide on a local service walkway. The through pedestrian zone is described in the City of Portland Pedestrian Design Guide.
- 4.** As described in the City of Portland Pedestrian Design Guide, the furnishing zone of a sidewalk is the area between the through pedestrian zone and the adjacent roadway. As one of its purposes, the furnishing zone can be designed to accommodate through pedestrian traffic, but it is also the area used by people alighting from cars and is the proper location for street trees, signal poles, utility poles, street lights, controller boxes, hydrants, signs, parking meters, driveway aprons, grates, hatch covers, transit kiosks, paper boxes and sidewalk amenities.

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5. As described in the City of Portland Pedestrian Design Guide, the frontage zone of a sidewalk is the area between the through pedestrian zone and the property line. This zone is designed to allow pedestrians a comfortable buffer distance from the building fronts in areas where buildings are at the lot line, or from elements such as fences and hedges on private property.
6. The bus mall includes both sidewalks on Fifth and Sixth Avenues from N.W. Glisan to S.W. Hall.
7. Sitting in or on a mobility device is the equivalent of standing for purposes of this Section.

H. This Section is effective until January 15, 2007.

14A.50.035 Pedestrians.

- A. No person with the intent to interfere with free passage shall 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 shall 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 shall not apply to any activity otherwise made lawful.

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

It shall be 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;
- B. With 250 feet of any:
 1. Public library grounds;

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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;
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 shall be 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 2 hours, whereupon 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 2 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.

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, shall have printed thereon the retail price thereof. It shall be 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

TITLE 31
FIRE REGULATIONS

- G.** “Fire Code” means the Oregon Fire Code, 2004 edition, with City of Portland Amendments.
- H.** “Fire hazard” means any thing or act which increases or may cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire; or which may obstruct, delay, hinder or interfere with the operations of the Fire Bureau or the egress of occupants in the event of fire.
- I.** "Fire Regulations" means the statutes and administrative rules adopted by the State of Oregon and the Portland City Code adopted by the Council and the policies adopted under the authority granted under this Chapter to the Fire Marshal which are for the purpose of safeguarding life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.
- J.** “Key box”, also know as a “lock box”, is a secure metal box used to hold keys for a specific site, to provide Fire Bureau personnel access to that site.
- K.** “Occupancy” means the activity in a building or on property outside a building where services or housing are provided or commodities are bought, sold, handled, manufactured or stored. A single business entity with multiple uses or activities in a building as defined by the Oregon Structure Specialty Code is considered one occupancy. Any structure, yard or group of tanks outside a building such as tank farms, moorage and outside storage are considered one occupancy. The definition includes individual businesses within a multiple occupancy commercial building but it does not include individual dwelling units within a multiple residential building. The Oregon Structure Specialty Code shall define classification of all buildings and structures as to use and occupancy.
- L.** “Owner/occupant” means the owner, operator, occupant or entity legally responsible for a premise or the delivery of services or housing, or the buying, selling, handling, manufacture or storage of commodities, and/or the condition of the building.
- M.** “Periodic Inspection” means an inspection performed periodically by a member of the Fire Bureau for the purpose of determining that the entire occupancy is in compliance with the requirements of fire regulations. A “periodic inspection” is also known as a “regular inspection” by the Fire Bureau. It does not include specific requests for inspection.

TITLE 31

FIRE REGULATIONS

- N.** “Permit” means a written permission of the Fire Marshal issued pursuant to the provisions of this Title.
- O.** Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies. Webster’s Third New International Dictionary of the English Language, Unabridged, copyright 1985, shall be considered as providing ordinary accepted meanings.

31.10.040 Organization.

- A.** The Fire Bureau shall administer the provisions of this Title unless otherwise specified in this Title.
- B.** The Fire Chief shall be responsible for all fire prevention efforts in the City and for enforcing the provisions of this Title or any subsequent amendments to the same.
- C.** The personnel of the Fire Prevention Division shall consist of a Fire Marshal and as many Deputy Fire Chiefs, Fire Captains, Senior Fire Inspectors, Fire Inspectors and other employees as may be allowed and provided by the Fire Chief and City Council. Such personnel may act to enforce provisions of this Title as assigned by the Fire Marshal. The Fire Marshal shall report directly to the Fire Chief.
- D.** There shall be, in the Fire Prevention Division of the Fire Bureau, a section designated as the “Fire and Arson Investigation Unit”, which shall be considered a law enforcement unit of the City of Portland. Personnel assigned to this unit shall be designated peace officers, for fire and life safety purposes including determining the cause of fires, for detecting arson, and for enforcing this Code and any other codes, rules or regulations incorporated therein. This unit shall be charged with the enforcement of the criminal laws of the State of Oregon relating to the crimes of arson, reckless burning, insurance fraud, and other related crimes.

31.10.050 Authority.

(Amended by Ordinance No. 180514, effective October 11, 2006.)

- A.** Rules and Regulations. The Fire Marshal, with the approval of the Fire Chief, is authorized to make and enforce such rules, regulations and policies for the prevention and control of fires and fire hazards, as may be necessary to carry out the intent of this Title.
- B.** Adoption of Oregon State Statutes. In order to obtain an exempt jurisdiction status from the State Fire Marshal, in accordance with ORS 476.030(3) from the statutes, rules and regulations administered by the State Fire Marshal, the City

**TITLE 31
FIRE REGULATIONS**

hereby adopts and incorporates into this title by reference the following provisions of the Oregon Revised Statutes: 162.225, 162.235, 162.375, 476.005, 476.010, 476.150 through 476.290, 476.380, 476.715, 478.960, 479.015 through 479.170, 479.190, 479.195, 479.210 through 479.300, 479.990(6), and all of ORS 480 except 480.350, 480.355, 480.375(2), 480.432 through 480.440.

Where reference is made to the State Fire Marshal in the Oregon Revised Statutes in this Title, the term "City Fire Marshal" shall be substituted for it.

- C.** Adoption of Oregon State Administrative Rules, Fire Marshal Chapter 837. In order to obtain an exemption in accordance with ORS 476.030(3) from the statutes, rules and regulations administered by the State Fire Marshal, the City hereby adopts and incorporates into this Title by reference the following administrative rules adopted by the State Fire Marshal:

- 1.** OAR 837 - Division 12, Public Display of Fireworks in Oregon
- 2.** OAR 837 - Division 20, Flammable and Combustible Liquids
- 3.** OAR 837 - Division 30, Liquefied Petroleum Gas, Sections 837-030-0140 through 837-030-0180 and 837-030-0230
- 4.** OAR 837 - Division 41, Fire Protection Regulations Relating to Institutions Care Facilities - Exitway Protection
- 5.** OAR 837 - Division 45, Smoke Detectors

Where reference is made in this Title to the State Fire Marshal in the Oregon State Fire Marshal Administrative Rules, the term "City Fire Marshal" shall be substituted for it.

- D.** Oregon Residential Specialty Code. In order to allow alternative methods of fire protection for the development of one and two family dwellings, the City hereby adopts and incorporates into this Title by reference Oregon Administrative Rule 918-480-0100.
- E.** Adoption of Oregon Fire Code, 2004 Edition. In addition to the provisions of this Title, and as a supplement thereto, in order to regulate those conditions hazardous to life and property from fire or explosion that are not specifically addressed by this Title, the City hereby adopts the 2004 Edition of the Oregon Fire Code with amendments as shown in Ordinance 180276, Attachment B, adopted June 28, 2006.

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- F.** Standards of the National Fire Protection Association. When requested by a building owner, the Fire Marshal may use criteria from an edition of a National Fire Protection Association Standard that is more current than adopted by Chapter 45 of the 2004 Oregon Fire Code.
- G.** Adoption of National Fire Code, Volumes 1 through 9, 2004 Edition. Unless specifically provided for in other titles of the Code, where requirements of this Title do not provide necessary regulation or are not fully detailed with regard to processes, methods, specifications, equipment testing and maintenance, standards of design, performance and installation and other pertinent criteria, the City adopts Volumes 1 through 9 of the 2004 Edition of the National Fire Codes as published by the National Fire Protection Association.

31.10.060 Authority to Require Address Change.

The Fire Marshal is authorized to require a property address change when, in the opinion of the Fire Marshal, the existing address may delay emergency response by emergency service providers.

31.10.070 Citations.

(Amended by Ordinance 180514, effective October 11, 2006.)

A. Authority Established.

If, after investigation, the Fire Marshal determines that a violation of this Title has occurred, and that the person, entity or owner/occupant committing the violation knew or should have known that the action was in violation of this Title, a citation may be issued to the person, entity or owner/occupant committing the violation. Citable violations include, but are not limited to:

- 1.** Failure to obtain a permit
- 2.** Failure to adhere to permit conditions
- 3.** Failure to adhere to assigned occupant load limit in assembly occupancy
- 4.** Exit blocked, obstructed
- 5.** Exit corridor or aisle obstructed or width reduced
- 6.** “Exit” sign missing or not working
- 7.** Fire extinguisher missing, discharged or wrong type
- 8.** Firefighting appliance blocked, obstructed or otherwise rendered unusable

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9. Fire alarm device or fire extinguishing system blocked, obstructed or otherwise rendered unusable
 10. Failure to use, maintain, store or secure propane bottle as required by this Title
 11. Performing work that requires a Certificate of Fitness without a valid certificate
 12. Assigning an employee to perform work that requires a Certificate of Fitness without a valid certificate
 13. Parking on a posted fire access road
 14. Blocking or obstructing any fire hydrant or fire department connection
 15. Conducting mobile fueling operation in violation of Fire Code regulations
 16. Possession or use of illegal fireworks
 17. Storage of illegal fireworks
 18. Illegal commercial fireworks display
 19. Illegal occupancy in violation of International Building Code
 20. Burning in violation of Fire Code
 21. Repetitive false alarms in occupancies equipped with fire, smoke and/or water flow detection systems.
 22. Violations that would constitute or contribute to an immediate and/or imminent hazard to life and property
- B.** Each day a person, owner or occupant violates or fails to comply with a provision of this chapter may be considered a separate violation for which a citation may be issued.
- C.** Fines Authorized. Citations shall result in monetary fines as set forth in Fee Schedule adopted by City Council. Fines may escalate for two or more occurrences of the same or similar violations by the same person, owner or occupant within a four-year period. The Fire Marshal may suspend 1/2 of any citation fine, providing the person, owner or occupant cited agrees in writing to

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immediately cease and/or abate the violation. If the person, owner or occupant is found to be in violation of the same or similar violation within a four year period, the original fine may be reinstated and shall be in addition to any other fine authorized by this title.

D. Citation Process. Citation shall be delivered as would reasonably be expected to provide notice, including in person, by certified mail or posted conspicuously on property. Citation shall include:

1. Name and address of person, owner or occupant being cited
2. A description of the property where the violation occurred
3. Date(s) of the violation
4. Reference to the particular code(s) violated
5. A statement explaining actions required of person, owner or occupant being cited
6. A statement of applicable monetary penalty, and
7. A statement of the right to appeal the citation

31.10.080 Appeals.

A. Standing for Appeals. The following persons, owners or occupants, herein called appellants, may submit an appeal as described in this Title:

1. Any person, owner or occupant who has been ordered by the Fire Marshal to incur any expense under any provision of this Title;
2. Any person, owner or occupant who has been cited by the Fire Marshal for violation of any provision of this Title;
3. Any person, owner or occupant whose application for a permit or approval under this Title has been refused by the Fire Marshal;
4. Any person, owner or occupant whose special case is not specifically covered by this Title.

B. Board of Appeals. The Fire Code Board of Appeals, having been established, is hereby continued.