

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	September 30, 2008
Previous Update Packet	June 30, 2008

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

3.21.190 Response of Chief.

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

3.21.200 Limitation on Power.

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

Chapter 3.22

PORTLAND FIRE & RESCUE

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

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TITLE 3

ADMINISTRATION

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- 3.22.160 Fees for Pumping Water from Imperiled Vessels.
- 3.22.170 Distribution of Awards Earned by Members of Portland Fire & Rescue.
- 3.22.180 Forested and Wildland Interface Areas Fire Protection Plan.

3.22.010 General Organization.

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

- A.** The Emergency Operations Division, which shall be responsible for the saving of life and property from fire or other disaster, emergency medical services, hazardous materials incidents, conducting a fire loss control program, training and other miscellaneous public services;
- B.** The Fire Prevention Division, which shall be responsible for fire prevention inspections and Code enforcement (Title 31), fire and life safety plans review, fire and arson investigation, enforcement of harbor regulations (Title 19), and conducting an educational fire prevention program;
- C.** The Management Services Division, which shall be responsible for budget and finance, long range capital planning and program development, special projects, manual and automated management information systems, planning and administrative support services, and supplying logistical support which shall include facility and vehicle maintenance, operational supplies and services;
- D.** The Training and Safety Division, which shall be responsible for initial training of all newly hired firefighters, on-going training to maintain and improve the skills of all personnel, safety and risk management programs, accident and injury investigation and analysis, researching and developing new technologies and practices, and promoting training and educational opportunities for career development of all Bureau personnel.

3.22.020 Organized by Council - Subject to Civil Service.

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

3.22.030 Council Powers.

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

3.22.040 Care of Property by Council.

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

3.22.050 Duties of Chief Engineer.

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

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3.22.060 Destroying Buildings to Check Fire.

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

3.22.070 Appointment of Temporary Employees.

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

3.22.080 Assignments of Disabled Members.

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

3.22.090 Rules and Regulations and Administrative Orders.

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

3.22.100 Uniforms.

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

- A.** The Chief of the Bureau shall, subject to the approval of the Commissioner In Charge, prescribe specifications for fire uniforms and establish rules, regulations and conditions of wearing thereof.
- B.** Upon report of the Commissioner In Charge of Portland Fire & Rescue, the Council shall designate which items of the uniform specified by the Chief of the Bureau under subdivision A above shall be furnished by the City to those employees required to wear the prescribed uniform in performance of their normal and usual fire duties. Each new employee shall be furnished a complete set of designated items of uniform. All other employees shall be furnished designated items of uniform on the basis of replacement when needed as determined by the Fire Chief. Items furnished by the City shall remain property

of the City. The Fire Chief shall establish the rules, regulations and conditions for issuance and control thereof;

- C. The Chief of the Bureau shall have the authority to designate duty assignments which require dress other than the prescribed uniform. For such designated duty, no items of uniform shall be furnished, and those employees affected shall receive an annual cash clothing allowance in lieu of the items of uniform furnished by the City. Clothing allowances shall be paid in accordance with Section 5.08.070.

3.22.110 Fire Prevention and Suppression Contracts.

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

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

The Auditor shall execute such contracts only upon receipt of such certification, unless specially authorized by ordinance. Payment upon such contracts shall be due in equal semi-annual installments on or before January 1 and June 1 of the year in which the contract is in effect;

- D. As used in this Section:
 - 1. **“Effective year”** means the fiscal year in which the contract is operative,

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

$$\begin{array}{c} \text{(Cost To City Taxpayers)} \\ \text{Multiplied by} \\ \text{(Property Owner’s Assessed Value)} \\ \text{Divided by} \\ \text{(Assessed Value of City Property)} \end{array}$$

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

3.22.120 Renewal Notices.

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

3.22.130 Contract Form to be Approved by City Attorney.

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

3.22.140 Mutual Assistance Agreements.

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

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

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

3.22.160 Fees for Pumping Water from Imperiled Vessels.

(Amended by Ordinance No. 160883, effective June 9, 1988.) The fees for the emergency pumping services permitted by Section 3.22.150 shall be \$200 per hour. The owner, owner's agent, or master of the vessel requesting the nonfire emergency pumping service shall be advised that the pumping fee shall be \$200 per hour before a fire boat is

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dispatched to the emergency location. The fire boat officer, on arrival, shall obtain written agreement from the owner, owner's agent or master of the vessel in peril to pay the City \$200 per hour for salvage pumping before beginning operations. When the service of the fire boat is completed, the Chief of Portland Fire & Rescue shall certify to the Commissioner In Charge the exact time employed by the fire boat, and the Commissioner shall thereupon make a final charge for such service and require payment of such charge by the applicant. In the event salvage efforts fail, and if so recommended by the Chief Engineer (Fire Chief), the Commissioner In Charge of Portland Fire & Rescue may reduce or omit the pumping fee.

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

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

3.22.180 Forested and Wildland Interface Areas Fire Protection Plan.

(Amended by Ordinance Nos. 160127, 160883, and 168127, effective Sept. 21, 1994.)

A. General Provisions.

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

B. Plan Coordination.

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

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

C. Command Responsibility for Fire Fighting.

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

D. Activation and Response.

1. All participants and resources listed in the plan will be activated in accordance with the plan at the request of the Incident Commander.

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2. All participants in the plan will send liaison personnel to the field headquarters, support command headquarters, and the Emergency Operations Center as requested by the Incident Commander.

E. Personnel alerting.

1. The Bureau of Emergency Communications will initiate the alerting of participating services as outlined in the plan. The person contacted is then to complete the calls required by his/her bureau, office or agency.
2. For the purpose of alerting as required in 1 above, the head of each participating service shall establish and maintain master-call lists or a key-alerting system.

Chapter 3.24

PORTLAND WATER BUREAU

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

Sections:

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

3.24.010 Organization.

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

3.24.020 Administration.

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

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

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

3.24.030 Customer Service Group.

The Customer Service Group manages billing and collection services for the Portland Water Bureau including but not limited to, establishment of new accounts, close out of terminated accounts, meter reading, meter inspection services, leak repair notification, bill generation, payment application, remittance processing, approval of adjustments and refunds, delinquent account notification, collection of delinquent accounts by all legal means, termination of service for delinquency, resumption of water service and such other duties as requested by the Administrator. The Group will also be responsible for responding to ratepayer inquiries, hearing appeals of the matters for which the Group is responsible and managing financial assistance programs.

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

3.24.040 Engineering Services Group.

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

3.24.050 Finance and Support Services Group.

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

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3.24.060 Maintenance and Construction Group.

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

3.24.070 Operations Group.

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

3.24.080 Resources Protection and Planning Group.

The Resource Protection and Planning Group is responsible for Watershed and Columbia South Shore Well Field (CSSWF) management and coordination with federal, state and local partners to protect the quality of both of Portland's drinking water sources. This responsibility includes addressing legislative and regulatory issues and performing integrated resource planning, comprehensive planning on major issues, supply and demand analysis, and coordination of the Regional Water Providers Consortium. This Bureau work group is also responsible for the Bureau's business, residential and multifamily water conservation programs and Bureau sustainability efforts.

Chapter 3.26

BUREAU OF PARKS

Sections:

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

3.26.010 Organization Generally.

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

3.26.020 Executive and Clerical Division.

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

3.26.030 Park Maintenance and Operation Division.

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

3.26.040 Nursery and Planting Division.

The Nursery and Planting Division, supervised by a Director of Park Plantings or other competent person, shall have control over the gardening and nursery functions and properties of the Bureau of Parks, including the greenhouse, nursery, golf courses, and floral displays.

Removal of trees, permits for removal of trees, removal of limbs of trees and reports in regard to trees shall all be in the Nuisance Section, except that removal of trees shall be subject to the approval of the Superintendent of the Bureau of Parks or his designated representative.

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3.26.050 Public Recreation Division.

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

3.26.060 Municipal Stadium Division.

The Municipal Stadium Division, supervised by a Manager, which Division shall have charge of the operation and control of the municipal stadium, including maintenance of the property and rental or leasing of the property or its facilities.

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

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

3.26.090 Solar Friendly Trees.

(Added by Ordinance No. 157993, effective Feb. 18. 1986.) The City Forester, in consultation with the Energy Office, shall recommend a methodology to the Tree Advisory Committee for determining the relative solar friendliness of trees. The City Forester shall use the methodology to create and maintain lists of all trees known to be either solar friendly or non-solar friendly.

Solar friendly trees shall be those deciduous trees which, by the determination of the City Forester, shall have a combination of low winter branch density and long period of wintertime defoliation, and as such, shall result in minimal loss of incident solar radiation during the heating season if planted or allowed to grow.

Chapter 3.27

**PORTLAND PARKS AND
RECREATION BOARD**

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

Sections:

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

3.27.010 Purpose.

The Portland Parks and Recreation Board is hereby established, for the following purposes: to ensure that the vision and recommendations of the Parks 2020 Vision are at the forefront of discussions about park and recreation issues and trends over time, in all areas of the city; to advocate for parks on a city and regional basis to ensure that parks, natural areas, open spaces and recreation facilities are advanced in city and regional planning and design; to provide continuity when transitions occur in the leadership of Portland Parks and Recreation and on the City Council; and to provide a forum for public discussion and decision-making about park issues, bringing a city-wide and long-term perspective to neighborhood-based issues.

3.27.020 Definitions.

As used in this Chapter, unless the context requires otherwise, the following definitions apply:

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

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- F. “Director” means the Director of Portland Parks and Recreation, or the Bureau head, however designated.

3.27.030 Members and Terms.

- A. Voting Members. The Portland Parks Board shall consist of a minimum of nine (9) and a maximum of thirteen (13) voting members appointed by the Mayor in consultation with the Commissioner, and confirmed by the Council. Members shall serve without compensation for terms of three years. No member shall be appointed to more than two full consecutive terms. A member appointed initially to a term of less than three years may thereafter be re-appointed to two consecutive three-year terms. A member otherwise may be re-appointed after at least one full year following completion of the member’s two consecutive terms. The initial appointments shall be staggered in order to provide for a proportional turnover of terms each year. Members shall be appointed who demonstrate a commitment to Portland Parks and Recreation and to the mission of the Board. Members are expected to bring a system-wide perspective to the Board, and shall not represent individual districts or areas of the City. However, the membership of the Board shall strive to reflect the demographic and geographic diversity of the City.
- B. Ex Officio Members. The Board may, in its discretion, appoint such ex officio members as, in the judgment of the Board, will assist it in carrying out its functions. Such ex officio members shall be appointed in a manner to be determined by the Board. Ex officio members shall not have the right to vote. Ex officio members shall not be subject to the term limitations of Subsection A of this Section, but the Board may, by rule or regulation, provide for terms and other conditions of service of ex officio members as it may deem necessary or desirable.

3.27.040 Organization and Meetings.

The Board shall adopt such rules of procedure as it deems necessary to the conduct of its duties. The Board shall elect each year a Chair and such other officers as the Board may from time to time establish. The Board shall meet at least quarterly, and may meet more often. The Board Chair, in consultation with the Commissioner and the Director, shall set the agenda for Board meetings.

3.27.050 Duties.

The Board shall:

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

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

3.27.060 Staff Liaison and Support.

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

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Chapter 3.28

BUREAU OF HEALTH

Sections:

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

3.28.010 Transfer of Functions.

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

3.28.020 Executive and Clerical Division.

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

3.28.030 Communicable Disease Control Division.

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

3.28.040 Tuberculosis Control Division.

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

3.28.050 Venereal Disease Control Division.

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

3.28.060 Laboratory Division.

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

3.28.070 School Hygiene Division.

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

3.28.080 Emergency Hospital Division.

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

3.28.090 Pure Food Sanitation Division.

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

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

3.28.100 Division of Mental Health.

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

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3.28.110 Division of Home Health Care.

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

Chapter 3.30

BUREAU OF DEVELOPMENT SERVICES

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

Sections:

- 3.30.005 Organization.
- 3.30.010 Duties of the Bureau of Development Services.
- 3.30.020 Responsibility for the Development Services Center and Development Review Functions.
- 3.30.030 Development Review Advisory Committee.
- 3.30.040 Establishment of Enforcement Priorities and Remedies.
- 3.30.050 Special Jurisdiction.
- 3.30.060 Nuisance Abatement Contracts.
- 3.30.061 Contractor Eligibility.
- 3.30.062 Contract Award Procedure.
- 3.30.070 Inspections.

3.30.005 Organization.

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

3.30.010 Duties of the Bureau of Development Services.

(Amended by Ordinance Nos. 176955 and 180330, effective August 18, 2006.) The Bureau of Development Services shall be responsible for:

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- A.** The administration and enforcement of:
 - 1.** Noise Control, Title 18;
 - 2.** Building Regulations, Title 24.
 - 3.** Plumbing Regulations, Title 25.
 - 4.** Electrical Regulations, Title 26.
 - 5.** Heating and Ventilating Regulations, Title 27.
 - 6.** Floating Structures, Title 28.
 - 7.** Property Maintenance Regulations, Title 29.
 - 8.** Signs and Related Regulations, Title 32.
 - 9.** State of Oregon Regulations regarding manufactured dwellings.
 - 10.** Other regulations enacted by the State of Oregon and adopted by the City Council and assigned to the Bureau.
- B.** The application and enforcement of the provisions of Planning and Zoning Regulations, Title 33 as delegated by the Director of Planning.
- C.** The examination and checking of applications, plans, specifications and supporting documentation required as a prerequisite to the approval of land use actions and permits for development.
- D.** The coordination of related permits with other bureaus and offices as required to manage the Development Services Center.
- E.** The issuance of approvals and permits required for the construction, installation, repair, or alteration of land, buildings or equipment.
- F.** The inspection of sites, buildings or other structures and equipment for compliance with plans and specifications and with applicable Code provisions and laws; and
- G.** Other duties as assigned to the Bureau.

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3.30.020 Responsibility for the Development Services Center and Development Review.

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

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

3.30.030 Development Review Advisory Committee.

(Amended by Ordinance Nos. 176955 and 178954, effective January 7, 2005.)

- A. Purpose.** The Development Review Advisory Committee is a citizen advisory body, representing those with interests in the outcome of policies, budgets, regulations, and procedures that affect development review processes. The purpose of the Committee is to foster a timely, predictable and accountable development review process that implements the City's goals for land use, transportation, housing, economic development, neighborhood livability and the environment. The Committee advocates for and supports consistent and fair application and implementation of regulations. The Committee provides public input into the development review process by:
 - 1.** Providing leadership and expertise on issues affecting development;
 - 2.** Providing feedback to Bureaus, Review Bodies, and City Council on the impact of potential regulations and administrative rules on the development review process, taking into consideration the full range of City goals and objectives;
 - 3.** Providing recommendations for regulatory, code, and administrative rule changes affecting the development review process;
 - 4.** Monitoring the application and enforcement of regulations for their effectiveness in achieving the City's development goals;
 - 5.** Recommending customer service, permitting, process, and compliance improvements to Bureaus, Review Bodies, and/or City Council;
 - 6.** Serving as an advisory board to Development Review Directors and Bureaus on development review processes and procedures;

7. Providing input to ensure budgets of development review agencies are adequate to meet service goals and desired system outcomes.

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

1. Advocate for Individual customers
2. Citywide neighborhood interests
3. Design professionals
4. Environmental conservation
5. Historic preservation
6. Home builders
7. Home remodelers
8. Land use planning professions
9. Large business
10. Large construction contractors
11. Low-income housing developers
12. Major facilities landowners
13. Minority construction contractors
14. Neighborhood Associations

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15. Neighborhood businesses

16. Portland Planning Commission, as designated by the Planning Commission President, and serves as an ex officio member of the Committee.

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

D. Meetings, Officers, and Subcommittees.

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

2. The officers of the Committee shall consist of a Chairperson and a Vice-chairperson. The chairperson shall be responsible for conducting the meetings of the committee. The vice chairperson shall act as chair when the chairperson is not available.

3. The Development Review Advisory Committee may divide its members into subcommittees which are authorized to act on behalf of the committee for an assigned purpose. Subcommittee actions require the affirmative vote of at least three members.

E. Attendance. Members of the Development Review Advisory Committee are expected to attend each meeting of the committee. The Commissioner-in-Charge may replace any member who accrues unexcused absences from three or more consecutive meetings or more than 50 percent of the meetings in any year.

F. Compensation. Development Review Advisory Committee members shall serve without compensation.

3.30.040 Establishment of Enforcement Priorities and Remedies.

(Amended by Ordinance Nos. 175327 and 176955, effective October 9, 2002.) In order to carry out the duties as set forth in Section 3.30.010, the Director of the Bureau of Development Services may:

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- A.** Adopt written policies and procedures for the enforcement of applicable Code provisions and laws and establish enforcement priorities based on the number of budgeted enforcement personnel, public safety and welfare factors, and any priorities established by the City Council.
- B.** Gain compliance by:
 - 1.** Instituting an action before the Code Hearings Officer in the manner provided for by Title 22 of this Code; or
 - 2.** Causing appropriate action to be instituted in a court of competent jurisdiction; or
 - 3.** Issuing a code violation citation directly to the contractor or person responsible for carrying out the work. Any person receiving a citation for violating the provisions of the City Code administered by the Bureau of Development Services shall be subject to a fine of up to \$1,000 for each citation issued.
 - 4.** Taking other lawful action.
 - 5.** Revoking a Type B home occupation permit for failure to comply with the regulations of City Code Chapter 33.203 by using the following procedures:
 - a.** If the Director determines that cause for revocation of a permit exists, the Director shall provide written notice thereof to the permittee. The notice shall contain a brief description of the facts supporting the revocation, the date the revocation shall become final and a notice of the permittee's right to appeal the revocation.
 - b.** The notice shall be mailed by certified mail, return receipt requested, and regular mail to the permittee. The notice shall be effective upon three days after mailing.
 - c.** The revocation shall become final and effective ten days after the notice is effective, unless an appeal is filed.
 - d.** Any permittee whose permit has been revoked may appeal the revocation to the Code Hearings Officer pursuant to the provisions of City Code Chapter 22.10. The filing of an appeal shall stay the effective date of the revocation until the appeal is determined in a final decision by the Code Hearings Officer.

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- C.** Impose penalties for non-compliance, provide notification, and allow for appeals by:
 - 1.** Initiating the notification procedures provided in Section 29.60.050 of this Code;
 - 2.** Imposing monthly enforcement penalties for each property that meets the following conditions:
 - a.** The property is the subject of a notice of violation by the Bureau of Development Services; and
 - b.** A response period of 30 days has passed since the effective date of the initial notice of violation; and
 - c.** The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
 - 3.** Doubling the fees if the violations are not corrected within six months from the initial notice of violation.
 - 4.** Imposing an additional penalty of \$200.00 against any property for which a code enforcement proceeding is initiated before the Code Hearings Officer pursuant to the provisions of Title 22 of this Code.
 - 5.** All required fees are stated in the Fee Schedule adopted by City Council. Fees will be updated annually or on an as needed basis. The approved Fee Schedule will be available at the Development Services Center.
 - 6.** Providing for administrative procedures as set forth in Section 29.70.010 C. through E.
 - 7.** Providing for administrative review and the opportunity for appeal to the Code Hearings Officer for enforcement penalties imposed by the Bureau of Development Services as described in Chapter 29.80 of this Code.
 - 8.** Allowing exceptions to the penalties as provided in Section 29.60.100 for low income households and allowing the Director to approve short term suspension of penalties in cases where a property owner is awaiting decision from another department or bureau or is delayed by events beyond his/her/its control.

3.30.050 Special Jurisdiction.

(Amended by Ordinance Nos. 176585 and 176955, effective October 9, 2002). The Bureau of Development Services shall have authority to enforce Section 14A.20.070, and Subsections 16.10.200 L., 16.20.120 H., and 16.20.130 I., 16.20.160 and Sections 16.20.170, 16.70.450 and 16.70.800. The Bureau shall have authority to issue parking citations and order the towing and storage and/or removal of such vehicles and objects.

3.30.060 Nuisance Abatement Contracts.

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

3.30.070 Inspections

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

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

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

C. Grounds for Issuance of Inspection Warrants; Affidavit.

- 1.** Affidavit. An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the inspection or investigation, the building or property to be inspected or investigated, and the purpose for which the inspection or

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investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.

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

D. Procedure for Issuance of Inspection Warrant.

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

E. Execution of Inspection Warrants.

1. Occupied Property. Except as provided in subsection 2. of this section, in executing an inspection warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.
2. Unoccupied Property. In executing an inspection warrant on unoccupied property, the person authorized to execute the warrant need not inform

anyone of the person's authority and purpose, as prescribed in subsection 1. of this section, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the search warrant shall be conspicuously posted on the property.

3. Police Assistance. In issuing an inspection warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and assist the building inspector or representative of the bureau inspecting the property in any way necessary to complete the inspection.
4. Return. An inspection warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 5 working days from its date of execution, unless such judge before the expiration of such time extends the time for five days. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

3.30.080 Stop Work Orders.

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

- A. When it is necessary to obtain compliance with this Title, or any violations of provisions administered by the Bureau of Development Services, the Director may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If the Director issues a stop work order, the responsible party may not resume work until such time as the Director give specific approval in writing. The stop work order will be in writing and will include:
 1. Date of order;
 2. Permit or registration number, where applicable;
 3. Site address, legal description or project location of stop work order;
 4. A description of violations observed; and
 5. The conditions under which the work may resume.
- B. The stop work order will be posted by the Director at a conspicuous location at the site. In addition, a copy will be sent to the responsible party by Certified mail. Where the responsible party is not the property owner, a copy of the stop work order will also be sent to the property owner.

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- C.** It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order.
- D.** A stop work order is effective upon posting.
- E.** When an emergency condition exists, the Director may issue a stop work order orally. The Director will then issue a written notice under Section A, above, within 24 hours.

Chapter 3.32

BUREAU OF LICENSES

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

Chapter 3.34

**BUREAU OF PURCHASES AND
STORES**

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

Chapter 3.36

**BUREAU OF FACILITIES
MANAGEMENT**

(Repealed by Ordinance No. 161018,
effective July 6, 1988.)

Chapter 3.38

**HOUSING AND COMMUNITY
DEVELOPMENT COMMISSION (HCDC)**

(Substituted by Ordinance No. 165302,
effective Apr. 8, 1992.)

Sections:

- 3.38.010 HCDC Established.
- 3.38.020 HCDC Mission.
- 3.38.030 Duties.
- 3.38.040 Membership.
- 3.38.050 Staffing.
- 3.38.060 Cooperation.

3.38.010 HCDC Established.

Upon adoption of ordinances by the Cities of Gresham, Portland, and Multnomah County, a Housing and Community Development Commission, advisory to the jurisdictions participating in the Comprehensive Housing Affordability Strategy (CHAS), is established. The HCDC is designated as the primary public forum in which policy development, resource coordination, and civil leadership are provided to address the affordable housing problems throughout Multnomah County.

3.38.020 HCDC Mission.

The mission of the HCDC is to increase the effectiveness of the public housing delivery system by providing coordination amount diverse public agencies which implement housing programs and by serving as a centralized liaison between those agencies and the governing bodies of the jurisdictions on issues regarding housing policy, goals, programs, and related allocation of public funds.

3.38.030 Duties.

The HCDC is delegated to carry out the following functions:

- A.** Housing policy and planning.
 - 1.** Develop and recommend countywide housing policy as embodied in the CHAS and guide the development of local housing policies in cooperation with the participating jurisdictions.
 - 2.** Monitor and annually recommend updates to the CHAS.

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3. Recommend annual production and performance goals to carry out the CHAS.
 4. Review the activities of local planning and public works agencies for impacts on CHAS goals and make recommendations regarding the activities of these agencies.
- B.** Budget review and recommendations.
1. Develop policy recommendations in accordance with CHAS priorities to guide the development of budgets and local priorities for affordable housing development.
 2. Recommend the allocation of HOME, housing-related CDBG funds, and other flexible funds to appropriate jurisdictions.
 3. Review public agency budgets and proposed work programs (including housing production goals) for consistency with the CHAS.
- C.** Resource and program development. Work closely with implementing agencies to identify and recommend ways to increase the supply and availability of affordable housing and necessary support services through new initiatives and programs.
- D.** Program evaluation.
1. Evaluate annually the effectiveness of housing programs in meeting CHAS goals.
 2. Report annually to participating jurisdictions regarding performance of local housing programs to carry out the adopted CHAS. This annual report is to include recommendations as appropriate.
- E.** Linkage of housing development and supportive services.
1. Establish formal linkages to service providers and specific groups and organizations through establishment of a resource network. The organizational structure of this network shall be outlined in the HCDC bylaws.
 2. Evaluate this resource network structure on annual basis.
- F.** Public-private partnerships.

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1. Improve access to public and private sources of financing for affordable housing initiatives. Sources of financing include banks, philanthropic institutions and other socially motivated entitlement funders, and bond issuing agencies.
2. Assist implementing agencies in developing a comprehensive technical assistance program to improve the capacity of local community development corporations to develop and manage low-income housing.
3. Foster housing production countywide by identifying opportunities to streamline the regulatory process.
4. Actively encourage the support, personal commitment, and participation of highly respected community leaders, including the Mayors, City and County Commissioners, and business leaders in furthering the community's affordable housing agenda.

G. Advocacy/community and Intergovernmental relations.

1. Foster awareness of and support for the jurisdictions' legislative agenda to increase federal and state support for housing and supportive services.
2. Facilitate regional housing policy coordination with the Metropolitan Service District and other local governments.
3. Coordinate policy development with local housing and social service groups, including but not limited to the Community Action Commission, the Community Housing Resource Board, and the Commission on Aging.

H. Information and referral. Work with existing information and referral groups to establish a clear system for information and referral for developers, citizens, and supportive services providers.

3.38.040 Membership.

- A.** The HCDC shall consist of 15 members. The City of Portland shall appoint 9 members. Multnomah County shall appoint 3 members. Membership appointment shall achieve a balanced citizen-based perspective embracing a high level of knowledge of and expertise in housing development, finance, management, social services, community affairs, and consumer interests. The appointment of members shall take into account the income, racial, ethnic, and cultural diversity of the community.

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- B.** In addition, the Chair of the governing body or the Chief Executive Officer of the Portland Development Commission, the Housing Authority of Portland, and the Multnomah County Social Services Department, or their designees, shall hold non voting ex officio memberships on the Commission.
- C.** All appointments to the HCDC shall be for terms of three years. For the initial appointments, the following formula will be applied:
 - 1.** From the City of Portland, three members shall be appointment for a term of one year; three for a term of two years; and three for a term of three years.
 - 2.** From the City of Gresham, one member shall be appointed for a term of one year; one for a term of two years; and one for a term of three years.
 - 3.** From Multnomah County, one member shall be appointed for a term of one year; one for a term of two years; and one for a term of three years.
- D.** Members shall serve without compensation. However, jurisdictions may authorize reimbursement of the reasonable expenses of the members for carrying out the work of the HCDC.
- E.** The HCDC shall adopt rules of procedure (bylaws) necessary for the governance of its proceedings and election of its officers.

3.38.050 Staffing.

Staff shall be provided for the ongoing functions of the HCDC according to funding agreements reached amount the participating jurisdictions. In addition, inter-agency agreements shall be established for a network of liaison staff representing the key implementing and policy agencies as deemed necessary for the HCDC to carry out the duties enumerated in Section 3.38.030 of this Chapter.

3.38.060 Cooperation.

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

Chapter 3.40

BUREAU OF GENERAL SERVICES

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

Chapter 3.44

BUREAU OF CIVIC AUDITORIUM

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

Chapter 3.46

BUREAU OF INSECT CONTROL

3.46.010 County to Perform Duties.

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

Chapter 3.52

BUREAU OF COMPUTER SERVICES

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

**TITLE 3
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Chapter 3.53

BUREAU OF RISK MANAGEMENT

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

Chapter 3.54

LOSS CONTROL AND PREVENTION

(Added by Ordinance No. 156028,
effective May 31, 1984.)

Sections:

- 3.54.010 Definitions.
- 3.54.020 OMF Risk Management Division Responsibility and Authority.
- 3.54.030 Bureau Responsibility and Authority.
- 3.54.040 Loss Control and Prevention Advisory Committee - Responsibility and Authority.

3.54.010 Definitions.

(Amended by Ordinance No. 158966, effective Oct. 6, 1986.) Unless the context indicates otherwise, words used in this Chapter shall have the following meanings:

- A. **“Bureau”** means any City bureau, office, commission, or committee.
- B. **“Committee”** means the Loss Control Advisory Committee, consisting of the Risk Manager as Chairperson, the Mayor and each Commissioner, the City Auditor, the City Attorney, the Director of the Office of Fiscal Administration, and the Personnel Director, or their designees.
- C. **“Loss Control Program”** and **“Program”** mean a Citywide program consisting the loss control components of the City’s bureaus. “Loss control component” and “component” mean the written rules, regulations, and plan developed by each bureau and reviewed by the Committee, providing for both procedural and physical risk identification, measurement, and control in the bureau’s activities. Components may address any methods for loss prevention and control, including without limitation, accident reporting, accident review, hearing conservation, eye safety, respiratory protection, vehicular safety, industrial injuries and return to

work, personal protective equipment, volunteer coverage, property loss management, and tort early warning.

3.54.020 OMF Risk Management Division Responsibility and Authority.

(Amended by Ordinance Nos. 158966 and 181483, effective January 18, 2008.) The OMF Risk Management Division shall have the following responsibility and authority in the area of City loss control and prevention:

- A.** Develop guidelines, instructions, and a model plan to assist bureaus in developing loss prevention and control components;
- B.** On final review by the Committee of components submitted by the bureaus, file the City-wide program with the City Auditor and issue the program for implementation by affected bureaus;
- C.** Advise and assist affected bureaus in the implementation of components or parts thereof;
- D.** Monitor the effectiveness of components, and collect, analyze, and report annually to the Committee and City Council data showing the status of the components and the performance of bureaus implementing the components.

3.54.030 Bureau Responsibility and Authority.

(Amended by Ordinance Nos. 158966 and 181483, effective January 18, 2008.) Each City bureau shall have the following responsibility and authority:

- A.** Develop a written loss control component which shall include detailed and specific objectives, methods, and techniques for preventing injuries, illnesses, and other events leading to workers' compensation, liability, and property loss claims;
- B.** Include in the component specific performance objectives to permit monitoring and reporting on the Bureau's performance in reducing claims;
- C.** Submit the proposed component to the Committee for review;
- D.** On completion of review by the Committee and approval by the OMF Risk Management Division, implement the component;
- E.** Annually review its component, make any appropriate revisions, and submit any revisions of the component to the Committee for its review.

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3.54.040 Loss Control and Prevention Advisory Committee - Responsibility and Authority.

(Added by Ordinance Nos. 158966 and 181483, effective January 18, 2008.) The Loss Control and Prevention Advisory Committee shall have the following responsibility and authority:

- A.** In conjunction with bureau managers, develop and propose for approval by the City Council goals for each bureau or appropriate groups of bureaus for the frequency and severity of workers' compensation and liability losses.
- B.** Obtain from each bureau its proposed written loss control component;
- C.** Review each component to ensure that it is appropriate, adequate, thorough, and consistent with components developed by other bureaus;
- D.** Suggest revisions, if appropriate, and return the component to the bureau for consideration or revisions;
- E.** Upon final review of components, provide them to the OMF Risk Management Division for approval and implementation by bureaus.

Chapter 3.57

**INDUSTRIAL INJURY RETURN
TO WORK POLICY**

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

Chapter 3.58

VEHICLE LOSS CONTROL POLICY

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

Chapter 3.60

ZOO COMMISSION

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

Chapter 3.62

BOXING COMMISSION

3.62.010 Certain City Officials to Render Certain Services.

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

Chapter 3.64

ART COMMISSION

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

Chapter 3.66

**CIVIC AUDITORIUM ADVISORY
COMMITTEE**

(Repealed by Ordinance No. 160034,
effective Aug. 13, 1987.)

TITLE 3
ADMINISTRATION

Chapter 3.67

**PERFORMING ARTS ADVISORY
COMMITTEE**

(Added by Ordinance No. 152285,
effective Sept. 17, 1981.)

Sections:

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

3.67.010 Creation and Organization.

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

3.67.020 Procedure and Rules of Committee.

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

3.67.030 Duties.

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

Chapter 3.68

**FORMAL JAPANESE GARDEN
COMMISSION**

Sections:

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

3.68.010 Created.

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

3.68.020 Powers and Duties.

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

3.68.030 Meetings.

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

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3.68.040 Officers.

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

3.68.050 Rules - Quorum.

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

3.68.060 Vacancy - Removal.

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

Chapter 3.70

PITTOCK MANSION ADVISORY COMMISSION

Sections:

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

3.70.010 Created - Terms.

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

3.70.020 Powers and Duties.

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

3.70.030 Special Committees and Services.

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

3.70.040 Meetings.

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

3.70.050 Officers.

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

3.70.060 Rules - Quorum.

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

3.70.070 Vacancy.

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

Chapter 3.71

ENVIRONMENTAL COMMISSION

(Added by Ordinance No. 164432;
repealed by Ordinance No. 167239,
effective Dec. 29, 1993.)

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Chapter 3.72

COMMITTEE ON CLAIMS

Sections:

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

3.72.010 Created - Members - Meetings.

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

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

3.72.020 Presentation of Claims.

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

3.72.030 Consideration of Claims Not Covered by Insurance.

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

3.72.040 Claims Covered by Insurance.

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

Chapter 3.74

OATHS OF OFFICE

Sections:

- 3.74.010 Persons Required to Take Oath.
3.74.020 Form of Oath for Mayor, Commissioner and Auditor.
3.74.030 Form of Oath for Other Officer or Employee.

3.74.010 Persons Required to Take Oath.

(Amended by Ordinance No. 180917, effective May 26, 2007.) Each of the following employees shall be required to take an oath of office before entering upon the discharge of his duties, which oath shall be subscribed by the person taking it and shall be filed and preserved in the office of the Auditor;

- A.** Every officer and member of the Bureau of Police, including private, special, temporary, and substitute policemen;
- B.** Each officer and member of Portland Fire & Rescue serving on full time and devoting his labor exclusively to the interests of the City; and
- C.** Each elected or appointed officer or deputy of the City, including members of boards and commissions.

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

(Amended by Ordinance No. 168343, effective Jan. 7, 1995.) The form of oath to be taken by the elected officials of the City before entering upon the discharge of their duties shall be substantially as follows:

State of Oregon)
County of Multnomah) ss.
City of Portland)

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

Subscribed and sworn to before me this _____ day of _____, 20_____.

Auditor of the City
of Portland, Oregon

Deputy

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The oath of the Auditor shall be administered by a person having statutory authority under the laws of Oregon to administer oaths.

3.74.030 Form of Oath for Other Officer or Employee.

(Amended by Ordinance Nos. 139501 and 168343, effective January 7, 1995.) The form of oath to be taken by appointed City officials shall be substantially as follows:

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

The wording of the oath may vary, as officials are sworn according to the ceremonies of their own religion or in such manner as each deems binding on his or her conscience.

The oath may be administered by the Auditor, deputy auditor, a notary public, or a magistrate of any court of record in the United States, within their respective jurisdictions. Whenever the oath is administered by a person other than the Auditor or deputy, the credentials of the person administering the oath shall appear thereon, and the oath shall be sent immediately to the Auditor, who shall attest to receipt of the oath.

Chapter 3.76

PUBLIC RECORDS

(New Chapter substituted by Ordinance
No. 162306, effective Sept. 29, 1989.)

Sections:

- 3.76.010 Definitions.
- 3.76.020 Purpose.
- 3.76.030 Archival and Records Management Program Creation and Administration.
- 3.76.040 Authority and Duties of the Records Management Officer.
- 3.76.050 Duties of the Managers of City Departments, Agencies, Bureaus, Offices, Commissions, Boards and Public Corporations.
- 3.76.060 Care of Records.
- 3.76.070 Destruction of Records.
- 3.76.080 Use of Copies.
- 3.76.090 Public Access to Records.

3.76.010 Definitions.

In this Chapter, unless the context otherwise requires:

- A. **“Agency”** means a department, bureau, office, commission, board, public corporation or other organizational unit created by the Council of the City of Portland.
- B. **“Record”** means any document, paper, book, letter, drawing, map, plat, photograph, photographic file, motion picture film, microfilm, microphotograph, exhibit, magnetic or paper tape, punched card, or other document of any other material, regardless of physical form or characteristic, developed or received in connection with the transaction of official business and preserved or appropriate for preservation by an agency as evidence of the organization, function, policies, decisions, procedures, operations or other activities of the City of Portland or because of the informational value in them. The term does not include library and museum material developed or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved solely for convenience of reference, or stocks of publications.
- C. **“Public”** means all records created or received by the City of Portland in the course of official business. These records are public property and are subject to records management requirements established by this Code.

3.76.020 Purpose.

The purpose of this Chapter is to provide for the orderly management of current public records and to preserve non-current public records of permanent value for administrative, legal, and research purposes. (Repeals City Code 3.76 and Ordinance 144378 and 146843.)

3.76.030 Archival and Records Management Program Creation and Administration.

The City Auditor shall maintain an archival and records management program for the City, and shall be the official custodian of the City’s archival resources. The City Auditor shall designate a records management officer who is qualified by special training and experience in archival and records management work to administer a City archives and records management program.

3.76.040 Authority and Duties of the Records Management Officer.

In order to carry out the archival and records management program, the records management officer shall:

- A. Acquire and receive public records of permanent value from departments, agencies, bureaus, offices, commissions, boards, and public corporations of the City of Portland when those records are no longer necessary for conducting current business;

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- B.** Acquire, receive, appraise, and secure all public records for areas annexed from a county or special district or from a defunct agency of the City of Portland;
- C.** Negotiate for the acquisition and return of public records of the City of Portland which have been taken from its possession, or provide for the reproduction of records removed from its custody, or provide information concerning the location of these records if they have been maintained in a safe and usable manner and are available for public use, or recommend to the City Auditor action to recover City records removed from its jurisdiction without authorization;
- D.** Prepare inventories, indexes, catalogs, and other finding aids or guides to facilitate the use of the permanent records collection;
- E.** Analyze, develop and provide written standards and procedures for current record keeping;
- F.** Establish procedures for City agencies regarding the identification, segregation, and protection of records vital to continuing operations to comply with the City's emergency preparedness policies;
- G.** Establish procedures for City agencies with regard to microfilm applications to enhance retrieval of information, ensuring that the benefits derived exceed the cost of the activity;
- H.** Establish procedures for the preparation of records descriptions and develop records retention schedules which meet the requirements of Oregon Administrative Rules, provide for the safe retention of City records of permanent value, and for the prompt and orderly disposition of City records for which the state archivist has granted authority to destroy because they no longer possess administrative, legal, or research value to warrant their retention;
- I.** Prepare records retention schedules for review by the City Auditor and City Attorney and for approval by the state archivist;
- J.** Prepare an annual report as requested by the City Auditor on the condition of the City's archival resources and the management of current records.

3.76.050 Duties of the Managers of City Departments, Agencies, Bureaus, Offices, Commissions, Boards, and Public Corporations.

The manager of each City department, agency, bureau, office, commission, board, or public corporation shall:

- A.** Make and preserve public records containing adequate documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency which are designed to furnish the information necessary to protect the legal and financial rights of the City and of persons directly affected by the agency's activities;
- B.** Prepare and submit to the records management officer records retention schedules proposing the length of time records should be retained to meet agency needs;
- C.** Identify, segregate and protect records vital to the continuing operation of an agency in the event of natural or man-made disaster;
- D.** Ensure that at least two copies of each report, document, study, publication or consultant report prepared at City expense be deposited with the records management officer;
- E.** Notify the records management officer of records older than 25 years in the agency's possession. Transfer control of records or provide for duplication of information as recommended by the records management officer;
- F.** Establish safeguards against unauthorized or unlawful removal, loss or destruction of City records;
- G.** Designate a mid-management employee to act as a liaison between the agency and the records management officer on all matters relating to the archives and records management program.

3.76.060 Care of Records.

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

3.76.070 Destruction of Records.

Upon receiving approval from the state archivist, the records management officer will notify concerned agencies of the records retention and disposition schedules ready for implementation. At least thirty days before the disposal date, the records management officer will send the agency a destruction notice for records under records management control. Records will not be destroyed until final authorization is received. Records destruction will be carried out with appropriate safeguards for confidentiality.

3.76.080 Use of Copies.

- A.** A public officer performing duties under this Chapter is authorized to copy in any manner which produces a permanent, clear, accurate and durable reproduction of the original record. An original public record which is worn or damaged may be

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replaced by a reproduction made in accordance with this Chapter. Certification by the City Auditor, City Attorney, records management officer, or by the agency having custody of the record that the replacement is a true and correct copy of the original shall appear at the end of the reproduction. When original public records are reproduced and placed in conveniently accessible files and provisions are made for preserving and using them, the originals from which they were made may be destroyed.

- B.** Reproduction or replacement of records made under this Chapter are admissible in evidence as primary evidence of the original writing.

3.76.090 Public Access to Records.

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

Chapter 3.77

OFFICE OF THE OMBUDSMAN

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

Sections:

3.77.010	Purpose.
3.77.020	Definitions.
3.77.030	Office of the Ombudsman.
3.77.040	Ombudsman Selection.
3.77.050	Qualifications and Prohibitions.
3.77.060	Reserved.
3.77.070	Removal.
3.77.080	Staff and delegation.
3.77.090	Reserved.
3.77.100	Office Facilities and Administration.
3.77.110	Powers and Duties.
3.77.120	Investigations of Complaints.
3.77.130	Communications with Agency.
3.77.140	Communications with Complainant.
3.77.150	Procedure after Investigation.

- 3.77.160 Informing Citizens.
- 3.77.170 Reports.
- 3.77.180 Reserved.
- 3.77.190 Duty to Cooperate.
- 3.77.200 Ombudsman Immunities.
- 3.77.210 Reprisals Prohibited.
- 3.77.220 Relationship to Other Laws.
- 3.77.230 Effective Date.

3.77.010 Purpose.

The City hereby establishes, in addition to other remedies or rights of appeal, an independent, impartial office, readily available to the public, responsible to the City Auditor, empowered to investigate the administrative acts of city agencies and to recommend appropriate changes toward the goals of safeguarding the rights of persons and of promoting higher standards of competency, efficiency and justice in the provision of city services. This office shall be known as the Office of the Ombudsman.

3.77.020 Definitions.

In this chapter:

- A. "Administrative act" means an action, failure to act, omission, decision, recommendation, practice, policy or procedure.
- B. "Agent or agency" includes any bureau, office, institution, corporation, authority, board, commission, committee of the city, and any officer, employee, or member of the foregoing entities acting or purporting to act in the exercise of their official duties. EXCEPTING: elected officials and their personal staff.
- C. "City Auditor" refers to the elected City Auditor.
- D. "City" refers to the City of Portland.
- E. "City Council" refers to the City's legislative body comprised of five elected officials, the Mayor, and four City Commissioners.
- F. "Ombudsman" means the public official appointed by the City Auditor to receive and investigate citizen complaints against administrative acts of City government.
- G. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, and/or the manager, lessee, agent, servant, officer, or employee of any of them;
- H. "Record" means all records, documents, books, papers, files, photographs, microfilms, sound recordings, video recordings, magnetic storage media,

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computer data and all other materials, regardless of physical form or characteristics, created, generated, recorded, received, possessed or controlled by or on behalf of any agency.

- I.** “State” refers to the State of Oregon.

3.77.030 Office of the Ombudsman.

There is established by the City Council the Office of Ombudsman.

3.77.040 Ombudsman Selection.

The City Auditor shall select the Ombudsman in accordance with any applicable civil service regulations and other laws.

3.77.050 Qualifications and Prohibitions.

- A.** The Ombudsman shall be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems pertaining to City regulations, administration, and public policy, and shall have a working knowledge in local government commensurate to the powers and duties of the office. The Ombudsman shall be a registered voter of the United States, and shall hold a degree from an accredited college/university, or its equivalent in service to local government.
- B.** No person may serve as Ombudsman while engaged in any other occupation, business, or profession likely to detract from the full-time performance of his or her duties as Ombudsman or to result in a conflict of interest or an appearance of impropriety or partiality. All laws and requirements generally applicable to public employees are applicable to the Ombudsman.

3.77.060 Reserved.

3.77.070 Removal.

- A.** The Ombudsman may be removed from office during his or her term by the City Auditor.
- B.** If the position becomes vacant for any reason, the Deputy Ombudsman shall serve as acting Ombudsman until a new Ombudsman has been appointed.

3.77.080 Staff and Delegation.

- A.** The Ombudsman may appoint a deputy who is accountable to the Ombudsman and other personnel necessary to carry out the provisions of this chapter, when in keeping within the adopted budget for the Ombudsman's Office.

- B.** The Ombudsman may delegate to his or her staff members any of his or her duties, unless otherwise specified in this chapter.
- C.** The deputy shall succeed to all duties and responsibilities of the Ombudsman, including those specified by ordinance, when he or she is serving as the acting Ombudsman.

3.77.090 Reserved.

3.77.100 Office Facilities and Administration.

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

3.77.110 Powers and Duties.

The Ombudsman's powers and duties include, but are not limited to the following:

- A.** To investigate, on complaint or on the Ombudsman's own initiative, any administrative act of an agency, without regard to the finality of the administrative act, if he or she reasonably believes that it is an appropriate subject for review;
- B.** To undertake, participate in or cooperate with persons and agencies in such general studies, conferences, inquiries, meetings, or studies which might improve the functioning of agencies or lessen the risks that objectionable administrative acts will occur;
- C.** To make such inquiries and obtain such reasonable assistance and information from any agency or person as the Ombudsman shall require for the discharge of the Ombudsman's duties; and he or she may without prior notice enter and inspect the premises of any agency. Agencies shall not restrict the Ombudsman's access to agency personnel;

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- D.** Notwithstanding any other provision of city law, to have access to and to examine and copy, without payment of a fee, any agency records, including records which are confidential by city law, subject to any applicable state or federal laws. Except, the Ombudsman shall not have access to legally privileged documents held by the City Attorney or Attorney-Client communications held by the City Attorney clients. The Ombudsman shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure;
- E.** To request any person or agency to give sworn testimony or to produce documentary or other evidence that is reasonably relevant to the matters under investigation;
- F.** To maintain confidential any matter related to complaints and investigations to the extent allowable by law, except as the Ombudsman deems necessary to discharge the Ombudsman's duties or as directed by the District Attorney pursuant to a public records request;
- G.** To take appropriate measures to enforce the provisions of this chapter, including issuing reports, submitting recommendations, or seeking Council authorization for legal recourse if necessary to carry out the duties of the Ombudsman Office;
- H.** To adopt, promulgate, amend and rescind rules and regulations required for the discharge of the Ombudsman's duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and recommendations. However, the Ombudsman may not levy any fees for the submission or investigation of complaints;
- I.** To insure that a budget for the Office of the Ombudsman is well prepared and administered.

3.77.120 Investigations of Complaints.

- A.** The Ombudsman shall receive complaints from any source concerning any administrative act. He or she may conduct a suitable investigation of a complaint that is an appropriate subject for investigation. An appropriate subject for investigation by the Ombudsman includes any administrative act that the Ombudsman believes might be:
 - 1.** contrary to, law, regulation or agency practice;
 - 2.** unreasonable, unfair, oppressive, arbitrary, an abuse of discretion, or unnecessarily discriminatory even though in accordance with law;
 - 3.** based on mistaken facts or irrelevant considerations;

4. unclear or not adequately explained;
 5. performed in an inefficient or discourteous manner;
 6. otherwise erroneous or objectionable.
- B.** The Ombudsman, at the Ombudsman's discretion, may decide not to investigate a complaint because:
1. the complainant could reasonably be expected to use, or is using, another remedy or channel, or tort claim, for the grievance stated in the complaint;
 2. the complaint relates to a matter that is outside the jurisdiction of the Ombudsman;
 3. the complaint has been too long delayed to justify present examination;
 4. the complainant does not have a sufficient personal interest in, or is not personally aggrieved by, the subject matter of the complaint;
 5. the complaint is trivial, frivolous, vexatious or not made in good faith;
 6. the resources of the Ombudsman's Office are insufficient for adequate investigation;
 7. other complaints are more worthy of attention.
- C.** The Ombudsman shall not investigate matters currently in litigation; covered by collective bargaining agreement grievance procedures; or, employee or applicant discrimination complaints.
- D.** The Ombudsman's declining to investigate a complaint shall not bar the Ombudsman from proceeding on his or her own initiative to investigate an administrative act whether or not included in the complaint.
- E.** The Ombudsman shall protect the confidentiality of complainants or witnesses coming before him or her consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the Ombudsman to carry out his or her duties or the disclosure of records is directed by the District Attorney. (See Subsection 3.77 110 F.)
- F.** The Ombudsman shall have the authority to pursue administrative review of responses to complaints through higher authorities within the City.

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3.77.130 Communications with Agency.

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

3.77.140 Communications with Complainant.

- A.** After the Ombudsman has decided whether or not to investigate a complaint, the Ombudsman shall inform the complainant.
- B.** The Ombudsman shall, if requested by the complainant, report the status of his or her investigation to the complainant.
- C.** After investigation of a complaint, the Ombudsman shall inform the complainant of his or her conclusion or recommendation and, if appropriate, any action taken or to be taken by the agency involved.

3.77.150 Procedure after Investigation.

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

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

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

3.77.160 Informing Citizens.

The Ombudsman shall post notices or use other appropriate means to inform citizens of their rights, protections, and availability of services provided for under this Chapter. These notices may include posted notices in public areas; or, electronic postings or links through Internet web sites, including the City web site. Nothing in this section is to be construed as repealing any other provisions of contract, ordinance or law.

3.77.170 Reports.

The Ombudsman may from time to time and shall annually report his or her activities to the Auditor and City Council, or any of its committees, to the public and, in the Ombudsman's discretion, to agencies.

3.77.180 Reserved.

3.77.190 Duty to Cooperate.

City employees shall cooperate with the Ombudsman in the exercise of his or her powers, and shall not mislead or attempt to mislead an Ombudsman's inquiry.

3.77.200 Ombudsman Immunities.

To the extent allowable by law, the Ombudsman and staff shall not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to any matter involving the exercise of their official duties except as may be necessary to enforce this Chapter.

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3.77.210 Reprisals Prohibited.

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

3.77.220 Relationship to Other Laws

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

3.77.230 Effective Date

This Act shall take effect on July 1, 2001.

Chapter 3.78

ACQUISITION OF COUNTY PROPERTY FOR PARK PURPOSES

Sections:

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

3.78.010 Authorization for Payment.

(Amended by Ordinance No. 173369, effective May 12, 1999.) In all cases, past, present or future, in which an ordinance provides for the acquisition of park property from Multnomah County and where Multnomah County does not furnish an abstract or title insurance, the City Auditor is hereby authorized to draw and deliver a check in favor of Multnomah County for the amount to be paid for the deed from the county unless such ordinance indicates specifically a purpose to disregard this Chapter and thereupon the Auditor shall submit the matter to the City Attorney.

3.78.020 Title Reports.

The City Attorney hereby is authorized to obtain a policy of title insurance covering any particular parcel or parcels of property purchased in the past or in the future from

Multnomah County for park and playground purposes. The expense of such title reports shall be chargeable to the public recreational areas fund.

3.78.030 Clearing of Title.

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

3.78.040 Retaining Property with Cloud on Title.

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

Chapter 3.80

SPECIAL PERMITS

Sections:

3.80.010 Operations to Cease Upon Expiration of Permit.

3.80.020 Use of Park Property for Private Gardening Purposes.

3.80.010 Operations to Cease Upon Expiration of Permit.

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

3.80.020 Use of Park Property for Private Gardening Purposes.

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

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Chapter 3.82

OFFICER AND EMPLOYEE BONDS

Sections:

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

3.82.010 Exceptions.

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

3.82.020 Bond of the City Treasurer.

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

3.82.030 City Auditor's Bond.

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

Chapter 3.84

**CITY OWNED MOTOR VEHICLE
ACCIDENT REPORTS**

Sections:

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

3.84.010 Filing of Accident Report.

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

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

3.84.020 Form of Report.

The Bureau of Property Control shall prepare or otherwise provide, and upon request supply to the various departments and bureaus of the City, forms for accident reports required in Section 3.84.010. The report shall call for sufficiently detailed information to

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disclose with reference to an accident involving a City owned motor vehicle, the cause, conditions then existing, and the persons and property involved.

3.84.030 Repair Shop Report.

The person in charge of the bureau repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident, shall report in writing to the Bureau of Property Control not later than the next normal day of business after such motor vehicle is received, giving the City property number of such vehicle, department, and a general description of the damage.

3.84.040 Repair.

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

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

3.84.050 Billing of Charges.

No request for billing of charges for repair of motor vehicles damaged as defined in this Chapter shall be forwarded to the Auditor as in Section 5.48.040 provided, until the validity thereof based upon determination of liability shall have first been approved by the City Attorney.

Chapter 3.86

GOLF ADVISORY COMMITTEE

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

Sections:

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

3.86.010 Created - Organization.

(Amended by Ordinance Nos. 169770, 178253 and 178935, effective December 8, 2004.)
There hereby is created an advisory committee to the Commissioner In Charge of the Bureau of Parks to be known as the Golf Advisory Committee, consisting of ten 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. The Commissioner In Charge or his/her representative shall be an ex officio member of the Committee.

3.86.020 Procedure and Rules.

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

3.86.030 Duties.

(Amended by Ordinance No. 169770, effective Mar. 8, 1996.) The Golf Advisory Committee duties shall include, but not be limited to advising the Commissioner-In-Charge regarding the following areas: Golf Program budget review, review of the golf Program's Capital Improvement Program; review of golf concession contracts and proposals; review of the development, and monitoring of, the Golf Program's Strategic Plan, the marketing of the municipal Golf System; maximization and use of Golf System revenue. The Committee shall make an annual written report to the Commissioner-In-Charge, and to the Council.

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Chapter 3.88

INVESTMENT ADVISORY COMMITTEE

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

Sections:

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

3.88.010 Created - Organization.

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

3.88.020 Procedure and Rules.

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

3.88.030 Duties.

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

Chapter 3.90

OFFICE OF MANAGEMENT SERVICES

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

Chapter 3.92

BUREAU OF HUMAN RESOURCES

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

Chapter 3.94

**OFFICE OF PLANNING AND
DEVELOPMENT**

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

Chapter 3.95

**BUREAU OF ECONOMIC
DEVELOPMENT**

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

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Chapter 3.96

**OFFICE OF NEIGHBORHOOD
INVOLVEMENT**

(New Chapter replaced by
Ordinance No. 179418,
effective August 12, 2005.)

Sections:

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

3.96.010 Purpose.

This chapter creates a framework by which the people of the City of Portland may effectively participate in civic affairs and work to improve the livability and character of their Neighborhoods and the City. This Chapter sets out the basis for City recognition of Neighborhood Associations, District Coalitions, and the responsibilities and benefits accruing thereto. This chapter also sets out the basis for city acknowledgement of Business District Associations and the responsibilities accruing thereto. This chapter also creates the Office of Neighborhood Involvement and sets out its functions, duties and responsibilities. Nothing in this Chapter shall limit the right of any person or group to participate directly in the decision making processes of the City Council or of any City agency.

3.96.020 Definitions.

As used in this Chapter the following terms have the meanings given them in this Section.

- A. Neighborhood:** A geographically contiguous self-selected community.
- B. Neighborhood Association:** An autonomous organization formed by people for the purpose of considering and acting on issues affecting the livability and quality of their Neighborhood, formally recognized by the Office of Neighborhood Involvement, and subject to Chapter 3.96.

- C. District Coalition:** An organization which supports participation services for Neighborhood Associations and everyone within a geographically defined area, and is subject to Chapter 3.96.

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

3.96.030 Neighborhood Associations.

- A. Minimum Standards for Neighborhood Associations.** To receive and maintain formal recognition, Neighborhood Associations shall meet the Standards for neighborhood public involvement.
- B. Functions of Neighborhood Associations.** A Neighborhood Association may engage in, but is not limited to the following:

 - 1.** Make recommendation(s) concerning a particular action, policy or other matter to any City agency on any topic affecting the livability, safety and economic vitality of the Neighborhood, including but not limited to land use, housing, community facilities, human resources, social and

TITLE 3 ADMINISTRATION

recreational programs, traffic and transportation, environmental quality and public safety; and,

2. Assist City agencies in determining priority needs of the Neighborhood; and,
3. Review items for inclusion in the City budget and make recommendations relating to budget items for Neighborhood improvement; and,
4. Undertake projects and activities deemed appropriate by the Neighborhood Association; and,
5. Cooperate with other Neighborhood Associations and ONI to create District Coalitions.

C. Responsibilities of Neighborhood Associations.

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

D. Benefits to Neighborhood Associations.

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

3.96.040 Functions of District Coalitions.

A District Coalition shall:

- A. Provide training and orientation, information and support services to Neighborhood Associations within the areas of Neighborhood Associations served;

- B.** Facilitate communication between people and government;
- C.** Promote public participation within the areas of Neighborhoods served on issues of livability, safety and public policy;
- D.** Promote, encourage and support the participation of members of diverse communities within the areas of Neighborhoods served;
- E.** Administer contracts or memorandums of understanding and operate the District Coalition in accordance with the adopted Standards; and
- F.** Abide by the Standards established by the Office of Neighborhood Involvement.

3.96.050 Responsibility of City Agencies.

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

3.96.060 Responsibilities of the Office of Neighborhood Involvement.

There is hereby established and created an Office of Neighborhood Involvement which shall consist of a Director and such other employees as the Council may from time to time provide. In order to facilitate participation and improved communication between the public, Neighborhood Associations, Business District Associations, District Coalitions and the City, the Office of Neighborhood Involvement shall:

- A.** Assist Neighborhood Associations, District Coalitions and others in planning and developing programs for public involvement, crime prevention, dispute resolution and budget review; and,
- B.** Act as an information clearinghouse and resource to Neighborhood and Business Associations, other groups and the public; and,
- C.** Notify interested persons of meetings, hearings, elections and other public participation events of the Office of Neighborhood Involvement neighborhood system; and,

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- D.** Enter into, monitor, administer contracts, and memorandums of understanding for Neighborhood Associations through District Coalitions; and,
- E.** Promote and facilitate open communication and notification from City agencies to Neighborhood Associations, District Coalitions, and Business District Associations, promote and facilitate communication amongst City agencies about public involvement best practices and policy; and,
- F.** Support and promote public involvement within the Neighborhood Association framework; and,
- G.** Adopt and revise such Standards as are deemed necessary for the implementation of this Chapter and for orderly public involvement in City government through Neighborhood Associations and District Coalitions. In so doing, the Office of Neighborhood Involvement shall seek representation from Neighborhood Associations, District Coalitions, Business District Associations, diverse community interests, city agencies that engage in considerable public involvement activities, and other interested people as necessary; and,
- H.** Pursuant to the adopted Standards, formally recognize a Neighborhood Association and/or acknowledge a Business District Association. If a Neighborhood Association or Business District Association fails to meet the minimum requirements of chapter 3.96, the Office of Neighborhood Involvement may suspend partial or all benefits and may ultimately revoke formal recognition of a Neighborhood Association or acknowledgement of a Business District Association; and,
- I.** Promote, encourage and support diverse and multicultural public involvement; and,
- J.** Establish open and fair grievance procedures for Neighborhood Associations, District Coalitions, and the Office of Neighborhood Involvement; and,
- K.** Establish open meetings and public records standards for Neighborhood Associations and District Coalitions.

Chapter 3.98

TOWING BOARD OF REVIEW

(Added by Ordinance No. 138941,
effective Oct. 10, 1974.)

Sections:

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

3.98.010 Created - Organization.

(Amended by Ordinance Nos. 143364, 149583, 157639, 168911, and 172488 effective July 22, 1998.)

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

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- E.** If any member of the Board is absent from more than three regularly scheduled meetings of the Board during a single calendar year, without having notified the Chair in advance of such absence, such member shall be deemed to have resigned from the Board and the position shall thereafter be vacant and subject to appointment.

3.98.020 Procedure and Rules.

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

3.98.030 Staff.

(Amended by Ordinance Nos. 153508 and 157639, effective July 25, 1985.) The Bureau of Licenses shall provide staff and appropriate assistance for the Board.

3.98.040 Contracts - Rates.

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

3.98.050 Eligibility.

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

3.98.060 Powers of Board.

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

- A.** Oversee the operation of and inspect the equipment and personnel qualifications of all parties contracting with the City for towing or dispatching service to determine if they are in compliance with their contracts; and hear and investigate complaints regarding the City's towing contracts and the performance thereof.

- B.** Establish dispatching district boundaries and lists of towing companies within each district eligible to be dispatched for tows:
 - 1.** In establishing district boundaries, the Board shall consider;
 - a.** The number and location of towing companies certified by the board as eligible for City towing contractors, and;
 - b.** That the purpose of establishing districts is to ensure that a tow truck shall be available in the minimum amount of time possible and no later than 30 minutes after request for tow is received; and a motorist whose vehicle is towed shall have to travel the minimum possible distance to recover his vehicle;
 - 2.** The Board is authorized to establish separate district boundaries if necessary for the dispatching of tows to be performed under different forms of contracts.
- C.** Cancel any towing or dispatching contract under the terms thereof.

3.98.080 Appeals.

(New Section substituted by Ordinance No. 170282, effective June 19, 1996). Any towing company directly affected by an action of the Board may appeal to the Code Hearings Officer, pursuant to provisions of Chapter 22.10 of this Code under the following circumstances:

- A.** The towing company's contract with the City has been revoked or suspended by the Towing Board of Review;
- B.** The towing company has been directed by the Towing Board of Review to pay a civil penalty; or,
- C.** Against whom the Towing Board of Review has otherwise elected to impose Contract remedies.

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Chapter 3.99

FAIR WAGE POLICIES

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

Sections:

- 3.99.005 Policy.
- 3.99.010 Covered Services.
- 3.99.015 Compliance.
- 3.99.020 Adjustments.

3.99.005 Policy.

It is the policy of the City of Portland that employees performing certain categories of work under formal service contracts with the City of Portland be guaranteed a minimum fair wage including benefits to equal a specified minimum total compensation. City bureaus and operating units have the discretion to implement this policy in a reasonable manner.

3.99.010 Covered Services.

The Fair Wage Policy applies to formal service contracts entered into by the City of Portland for janitorial, security, and parking attendant services.

3.99.015 Compliance.

City of Portland bureaus or operating units entering into formal contracts for covered services shall include the annual minimum wage and total compensation amount established by the City Office of Management and Finance in all procurement announcements and resulting contracts. Compliance with the minimum wage and total compensation requirements shall be monitored through submission of monthly certified payroll, mandatory employee notification of annual minimum wage and total compensation rates via on-site postings, designation of a bureau-based individual responsible for compliance monitoring and complaint resolution, and other measures deemed appropriate by the City. Contracts entered into by the City for covered services shall also include a non-retaliation clause protecting workers who assert wage claims based on this Chapter.

3.99.020 Adjustments

The fiscal year 2000/01 minimum wage shall be \$8.00/hour with a minimum total compensation of \$9.50/hour. "Total compensation" includes wages and the employer's cost of paid leave, life or health insurance, or retirement, but does not include mandated employer costs such as FICA, state unemployment insurance, or other payroll taxes. The Office of Management and Finance shall provide City bureaus with a yearly minimum

wage and minimum total compensation figure for covered services which is anticipated to be adjusted annually in light of any year-to-year percentage increase in the Portland/Salem Consumer Price Index wage earners (cpi-w) as published by the Bureau of Labor Statistics in February of each year. In making these adjustments, the Office of Management and Finance shall take into account the City's overall financial picture, and this code shall not be interpreted to require any increase which is inconsistent with the City's financial health and capabilities.

Chapter 3.100

EQUAL OPPORTUNITY

(New Chapters substituted by
Ordinance No. 144724,
effective Nov. 10, 1977.)

Sections:

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

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- 3.100.083 Liaison Officer.
- 3.100.084 Minority/Female Business Enterprise List.
- 3.100.085 Advertising.
- 3.100.086 Minority/Female Purchasing Associations.
- 3.100.087 Monitoring.
- 3.100.088 Certification.
- 3.100.089 Rules and Regulations.

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

(Substituted by Ordinance No. 165383; amended by Ordinance No. 171993, effective February 11, 1998.) The City of Portland has a compelling governmental interest in prohibiting discrimination in programs, activities, services, benefits and employment whether carried out by the City itself or through a contractor with whom the City arranges to carry out its programs and activities. In addition to provision found elsewhere in this Code, provisions relating to equal employment opportunity, affirmative action and civil rights are specifically to be found in Chapter 4.02 and Chapter 23.01. The City of Portland's policies and programs relating to affirmative action are contained in its annual Affirmative Action Plan. Individual City bureaus may have specific programs designed to further the broad goals of equal employment opportunity, affirmative action and civil rights. It is unlawful to discriminate on the basis of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation or source of income in programs, activities, services, benefits, and employment whether carried out by the City of Portland, directly or through a contractor or any other entity with whom the City of Portland arranges to carry out its programs and activities except as allowed by federal law, rules and regulations.

3.100.010 Affirmative Action Program.

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

3.100.011 Definitions.

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

3.100.012 Policy.

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

3.100.013 Objectives.

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

3.100.014 Management Commitment.

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

- 3.100.015 Regulatory Committee.**
(Repealed by Ordinance No. 165383, effective Apr. 29, 1992.)
- 3.100.016 Bureau EEO Advisory Committees.**
(Repealed by Ordinance No. 165383, effective Apr. 29, 1992.)
- 3.100.017 Reports and Audits.**
(Repealed by Ordinance No. 165383, effective Apr. 29, 1992.)
- 3.100.018 Complaints of Discrimination.**
(Repealed by Ordinance No. 165383, effective Apr. 29, 1992.)
- 3.100.019 Sanction.**
(Repealed by Ordinance No. 165383, effective Apr. 29, 1992.)
- 3.100.020 Rules and Regulations.**
(Repealed by Ordinance No. 165383, effective Apr. 29, 1992.)
- 3.100.021 Identification of Handicapped.**
(Repealed by Ordinance No. 165383, effective Apr. 29, 1992.)
- 3.100.022 Management Commitment.**
(Repealed by Ordinance No. 165383, effective Apr. 29, 1992.)
- 3.100.023 Objectives.**
(Repealed by Ordinance No. 165383, effective Apr. 29, 1992.)
- 3.100.030 Contractor Equal Employment Opportunity Program.**
- 3.100.031 Definitions.**
(Repealed by Ordinance No. 171418, effective July 23, 1997.)
- 3.100.032 Contracts with the City.**
(Repealed by Ordinance No. 171418, effective July 23, 1997.)
- 3.100.033 Franchises.**
(Repealed by Ordinance No. 171418, effective July 23, 1997.)
- 3.100.034 Certification of Contractors.**
(Repealed by Ordinance No. 171418, effective July 23, 1997.)
- 3.100.035 Rules and Regulations.**
(Repealed by Ordinance No. 171418, effective July 23, 1997.)

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3.100.036 Compliance by Contractors.

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

3.100.037 Denial or Revocation of Certification.

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

3.100.038 Compatibility with Other Rules.

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

3.100.039 State of Emergency.

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

3.100.040 Exemptions.

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

3.100.041 Contracts with City.

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

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

the contract was awarded or executed. Similarly, a contract is voidable if the contractor subcontracts a portion of the work to a subcontractor or supplier that is not EEO certified or exempt from EEO certification requirements.

3.100.042 Certification of Contractors.

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

3.100.043 Information Required.

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

3.100.044 Compliance Review.

(Added by Ordinance No. 171418, effective July 23, 1997.) If the Bureau of Purchases receives a complaint filed by any person or entity that alleges prohibited discrimination by a Contractor or Subcontractor, or when information comes into its possession indicating that a Contractor or Subcontractor may have engaged in prohibited discrimination, the Bureau may conduct a Compliance Review to determine whether the complaint or the information is correct. The purpose of the Compliance Review is to determine whether an EEO Certification should be revoked or suspended or whether a request for certification or recertification should be denied.

3.100.045 Denial, Suspension, Revocation

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

- A. Actions by Bureau. The Bureau may deny, suspend or revoke an EEO certification of the contractor or subcontractor if:
 - 1. Employs a workforce that shows underutilization of minorities and women, as reflected by their availability in the workforce, and thereafter fails to take positive steps to diversify its workforce after notification from the Bureau that such steps are required to maintain the EEO certification. Underutilization determinations shall be based on federal Title VII standards including the “Four-Fifths Rule” and “Manifest Imbalance” concepts;
 - 2. Engages in discrimination prohibited by state, federal or local law;

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3. Refuses to provide information to the Bureau of Purchases to determine whether it should be EEO certified or recertified;
 4. Refuses to provide information when the Bureau is conducting a Compliance Review;
 5. Intentionally provides false information to the Bureau in regard to its EEO certification or in response to the Bureau's request for information; or
 6. Intentionally employs subcontractors that are not EEO certified.
- B.** Appeal. EEO certification that has been denied, suspended or revoked may be appealed to the City Council by filing a written notice with the City Auditor within 10 days after the date of denial, suspension, or revocation. Action on such appeal shall be as directed by the City Council.
- C.** Enforcement. If no appeal to the City Council is filed within the time allowed, or if the appeal is denied by the City Council, the decision of the Bureau immediately shall go into effect.

3.100.050 Nondiscrimination in Contracting.

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

3.100.051 Policy regarding Benefits.

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

3.100.052 Definitions.

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

- A.** "Bureau" means the Bureau of Purchases.
- B.** "Contract" means all formal solicitation contracts for Public Improvements and Construction Services authorized and executed pursuant to PCC Chapter 5.34, and all formal solicitation contracts for Goods and Services authorized and executed pursuant to PCC Chapter 5.33 and all formal solicitation contracts for Professional, Technical and Expert services (PTE) authorized and executed pursuant to PCC Chapter 5.68.
- C.** "Director" or "Purchasing Agent" means the Director of the Bureau of Purchases or that person to whom those duties have been properly delegated.

- D.** "Domestic Partner" means any person who is registered with his or her employer as a domestic partner, or, in the absence of an employer-provided registry, is registered as a domestic partner with a governmental body pursuant to state or local law authorizing such registration and who is in fact a current domestic partner with the person with whom that person was registered. Any internal employer registry of domestic partnership must comply with criteria for domestic partnerships specified by rule by the Bureau.
- E.** "Employee benefits" means any plan, program or policy provided by an employer to its employees as part of the employer's total compensation package. This includes but is not limited to the following types of benefits: bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; pension and retirement benefits; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

3.100.053 Discrimination in the provision of benefits prohibited.

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

- A.** No contractor on a City contract shall discriminate by policy or practice in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse, subject to the following exceptions:
- 1.** In the event that the contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a particular benefit for the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of employee benefits if the contractor conditions providing such benefit upon the employee agreeing to pay the excess costs.
 - 2.** The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular employee benefit to domestic partners, so long as the contractor provides the employee with a cash equivalent.
- B.** Other options for compliance allowed. Provided that a contractor does not discriminate in the provision of benefits between employees with spouses and employees with domestic partners, a contractor may:

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1. Elect to provide benefits to individuals in addition to employees' spouses and employees' domestic partners;
 2. Elect to provide benefits in a manner unrelated to spousal or domestic partner status; or
 3. Provide benefits neither to employees' spouses nor to employees' domestic partners.
- C.** Requirements inapplicable under certain conditions. The Director may waive the requirements of this chapter where it is found not to be in the best interest of the City. Examples of situations that require waiving the requirements of this chapter include but are not limited to:
1. Award of a contract or amendment is necessary to respond to an emergency;
 2. No compliant contractors are capable of providing goods or services that respond to the City's requirements;
 3. The contractor is a public entity;
 4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
 5. The City is purchasing through a cooperative or joint purchasing agreement;
- D.** Requests for waivers of the terms of this Chapter are to be submitted to the Bureau of Purchases in a manner prescribed by the Bureau. Decisions by the Bureau to issue or deny waivers are final.
- E.** The Director may reject an entity's bid or proposal, or terminate a contract, if the Director determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.
- F.** The City shall not execute a contract with a contractor unless such contractor has agreed not to discriminate in the provision of employee benefits as provided for in this chapter.
- G.** All contracts awarded by the City shall contain provisions developed by the Bureau of Purchases prohibiting discrimination in the provision of employee benefits, including provisions containing appropriate remedies for the breach

thereof as prescribed by Section 3.100.054, except as exempted by this chapter or rule.

3.100.054 Limitations.

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

- A. Within the City;
- B. On real property outside of the City if the property is owned by the City or if the City has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the City; and
- C. Elsewhere in the United States where work related to a City contract is being performed.

The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or contractor.

3.100.055 Powers and duties of the Director.

(Added by Ordinance No. 180077, effective May 19, 2006) The Director of the Bureau of Purchases shall have the power to:

- A. Adopt rules and regulations, in accordance with this chapter and the Administrative Code of The City of Portland (PCC 3.02), establishing standards and procedures for effectively carrying out this chapter;
- B. Examine contractor's benefit programs covered by this chapter;
- C. Allow for remedial action after a finding of non-compliance, as specified by rule.
- D. Determine and impose appropriate sanctions and/or liquidated damages for violation of this chapter by contractors including, but are not limited to:
 - 1. Disqualification of the contractor from bidding on or being awarded a City contract for a period of up to 3 years; and
 - 2. Contractual remedies, including, but not limited to, termination of the contract.
- E. Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;

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- F.** Perform such other duties as may be required by ordinance or which are necessary to implement the purposes of this chapter.

3.100.056 Severability of Provisions.

(Added by Ordinance No. 180077, effective May 19, 2006) If any part or provision of this Chapter, or application thereof to any person or circumstance, is held invalid, the remainder of this Chapter and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

3.100.060 Grant Equal Opportunity Compliance Program.

3.100.061 Definitions.

(Amended by Ordinance No. 150738, effective Dec. 13, 1980.) As used in this Section:

- A.** “**Equal Opportunity**” or “**EO**” means the concepts and practice of nondiscrimination on the basis of race, religion, color, national origin, sex, age or handicap in employment, purchasing, contracting, or utilization of firms or individuals on the basis of demographics as may be prescribed by grants awarded to the City of Portland by other governmental agencies.

3.100.062 Purpose.

(Amended by Ordinance No. 150738, effective Dec. 13, 1980.) The purpose of the Grant Equal Opportunity Compliance Program is:

- A.** To provide a uniform and consistent review of all equal opportunity and labor standard requirements associated with grants from other governmental agencies to the City of Portland.
- B.** To establish guidelines, instructions, uniform reporting formats, related administrative support, and assistance necessary to comply with grant equal opportunity requirements.
- C.** To provide a single, initial contact for grantor agencies and others seeking information about, or contact with, grantee bureaus or offices on EO matters.

3.100.063 Responsibility.

(Amended by Ordinance No. 150738, effective Dec. 13, 1980.) Affected City agencies shall have responsibilities under this Section as follows:

- A.** Federal Grants Coordinator shall submit all grant applications to the Contract and Grants Compliance Division for determination of equal opportunity requirements. No grant application shall be submitted to the City Council unless the Contract

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and Grants Compliance Division has reviewed the applicable equal opportunity requirements and obligations.

Following the award of any grant, the Federal Grants Coordinator shall provide the Contract and Grants Compliance Division with copies of the grant and applicable related documents.

- B.** Contract and Grants Compliance Division shall serve as the point of contact for all communications relating to grant equal opportunity compliance, and shall review all grants as follows:
 - 1.** Pre-Application. Before any grant application is submitted to the grantor agency, the equal opportunity provisions shall be reviewed to determine compliance requirements. A report of such review shall be submitted to the Federal Grants Coordinator.
 - 2.** Post Award. Immediately after the award of any grant, the Contract and Grants Compliance Division shall advise the grantee bureau or office of applicable requirements and provide guidelines, instructions, forms, and assistance, as required to assist the bureau or office to implement compliance.
- C.** Grantee Bureaus or Offices. Shall be fully responsible for compliance with all equal opportunity requirements imposed by applicable grants. In the discharge of such responsibility, grantee bureaus or offices shall cooperate fully with the Contract and Grants Compliance Division including, but not limited to, accumulation of applicable data, preparation of suitable records, and submission of such records and forms as may be required.

3.100.064 Compliance Monitoring.

(Amended by Ordinance No. 150738, effective Dec. 13, 1980.) The Contract and Grants Compliance Division shall monitor the program at appropriate intervals to assure compliance with requirements. Where difficulties are noted, recommendations shall be made to the appropriate bureau, office supervisor or project manager.

3.100.065 Rules and Regulations.

(Amended by Ordinance No. 150738, effective Dec. 13, 1980.) The Contract and Grants Compliance Division shall establish and maintain suitable rules and regulations for administration of the Grant Equal Opportunity Compliance Program.

3.100.080 Minority/Female Purchasing Program.

(Amended by Ordinance No. 150738, effective Dec. 13, 1980.)

3.100.081 Definitions.

(Amended by Ordinance No. 150738, effective Dec. 13, 1980.) As used in this Section:

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- A. “Minority” or “minorities”** means Blacks, Hispanic Americans, Pacific Islanders, Asian Americans, American Indians, Aleuts and Eskimos.
- B. “Members of Other Groups” (MOG)** means members of other groups or other individuals than those specified in A above, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)). These MOGs shall also be eligible to participate in this program.
- C. “Minority business enterprise” (MBE)** means a business at least 50 percent of which is owned by minorities or, in the case of publicly owned business, at least 51 percent of the stock of which is owned by minorities and whose management and daily business operations are controlled by one or more such individuals.
- D. “Female business enterprise” (FBE)** means a business at least 50 percent of which is owned by females or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by females and whose management and daily business operations are controlled by one or more individuals.

3.100.082 Purpose.

(Amended by Ordinance No. 150738, effective Dec. 13, 1980.) The purpose of the Minority/Female Purchasing Program is to encourage and promote the sale of goods and/or services by minority and female business enterprises to the City of Portland. When such services are provided by federal funds encouraging or requiring MBE/FBE participation, the City shall take necessary action to comply with federal laws, regulations and contracting requirements.

3.100.083 Liaison Officer.

(Added by Ordinance No. 150738, effective Dec. 13, 1980.) The designated Liaison Officer shall be the Purchasing Agent, who will be responsible for the day to day management of all elements of the program.

3.100.084 Minority/Female Business Enterprise List.

(Amended by Ordinance Nos. 150738 and 155018, effective Aug. 25, 1983.) The Contract and Grants Compliance Division of the Office of Fiscal Administration shall establish and maintain a current list of minority/female business enterprises, with indications of product and service areas. Such lists shall be consulted when requests for quotations for supply of goods and/or services are received.

3.100.085 Advertising.

(Amended by Ordinance Nos. 150738 and 155018, effective Aug. 25, 1983.) The Purchasing Agent shall advertise periodically in local publications (including the Daily

Journal of Commerce, female and minority publications) that the City encourages bidding by MBEs and FBEs and that the City will assist such firms to understand and participate in formal bidding process.

3.100.086 Minority/Female Purchasing Associations.

(Amended by Ordinance Nos. 150738 and 155018, effective Aug. 25, 1983.) The Purchasing Grants Compliance Division shall develop and implement certification and review criteria for authorization of eligible MBE/FBE participants. Such certification shall be no less often than annually.

3.100.089 Rules and Regulations.

(Amended by Ordinance Nos. 150738 and 155018, effective Aug. 25, 1983.) The Purchasing Agent (Bureau of Financial Affairs) shall establish and maintain rules and regulations for administration of the Minority/Female Purchasing Program.

3.100.090 Metropolitan Human Relations Commission Review and Evaluation.

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

Chapter 3.101

**PROPERTY TAX EXEMPTION FOR
LOW INCOME HOUSING HELD BY
CHARITABLE NON-PROFIT ORGANIZATIONS**

(Added by Ordinance No. 157768,
effective Aug. 29, 1985.)

Sections:

- 3.101.010 Definitions.
- 3.101.020 Eligible Organizations.
- 3.101.030 Eligible Property.
- 3.101.040 Application Procedure.
- 3.101.050 Review of Application.
- 3.101.060 Annual Application Renewal.
- 3.101.070 Assessment Exemption.
- 3.101.080 Termination.
- 3.101.090 Implementation.

3.101.010 Definitions.

(Amended by Ordinance No. 167356, effective Feb. 9, 1994.) As used in this Chapter:

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- A. “Low income”** means income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development.
- B. “Eligible property”** means land and improvements thereon:
 - 1.** Which are either single or multi-family residential units and or properties which are not residential units but which will become occupied residential units through rehabilitation improvements or new construction and are intended for the exclusive occupancy by low income during the tax year for which approval of the application has been granted;
 - 2.** Which are owned, being purchased, or held under leasehold interest in the property which meet the standards of 3.101.030 B 1-2 by a charitable organization and non-profit corporation for the purpose of occupancy by low-income persons as described in 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984, pursuant to Chapter 108 Oregon Laws 1993;
 - 3.** Which the owner or leaseholder has met all eligibility requirements and made all required agreements described in this Chapter.
- C. “Governing body”** means the City of Portland, which for the purpose of this Chapter is the Bureau of Planning.

3.101.020 Eligible Organizations.

As used in this Chapter: “Eligible organizations” means only charitable non-profit corporations certified by the Internal Revenue Service of the federal government as a 501 (c) (3) or (4) organization which also provides housing for occupancy by low-income persons as defined by 3.101.010 in this Chapter. No other types of non-profit or for-profit organizations are eligible.

3.101.030 Eligible Property.

(Amended by Ordinance No. 167356, effective Feb. 9, 1994.) As used in this Chapter:

- A. “Eligible property”** as defined in 3.101.010 B 1-3 which meets all of the following criteria, pursuant to Chapter 108 Oregon Laws 1993, and other conditions of this Chapter shall be exempt from taxation:
 - 1.** The property is owned or being purchased by a corporation that is exempt from income taxes under 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984, pursuant to Chapter 108 Oregon Laws 1993;

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2. Upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific, literary, or educational purposes or to the State of Oregon;
 3. The property is occupied by low-income persons as defined in 3.101.010 A of this Chapter.
 4. The property or portion of the property receiving the exemption is actually and exclusively used for the purposes described in 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984.
 5. The exemption has been approved as provided in Section 3.101.040 and 3.101.050 of this Chapter.
- B.** For the purposes of this Chapter, pursuant to Chapter 108 Oregon Laws 1993, a corporation that has only a leasehold interest in property is deemed to be a purchaser of that property if:
1. The corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or
 2. The rent payable by the corporation has been established to reflect the savings resulting from the exemption from taxation.

3.101.040 Application Procedure.

(Amended by Ordinance No. 167356, effective Feb. 9, 1994.)

- A.** To qualify for the exemption the corporation shall file an application for exemption with the Bureau of Planning acting on behalf of the City of Portland for each assessment the year the corporation wants the exemption. The application shall be filed on or before March 1 of the assessment year for which the exemption is applied for, except that when the property designated is acquired after March 1 and before July 1, the claim for that year shall be filed within 30 days after the date of acquisition. the application shall include the following information:
1. The applicant's name, address, and telephone number;
 2. The assessor's property account number for each site;
 3. The number of units and the exempted amount of each property being applied for under this Chapter;

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4. A description of the property for which the exemption is requested; And (e) through (h) and (2), pursuant to Chapter 108 Oregon Laws 1993 as follows:
 5. A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;
 6. A description of how the tax exemption will benefit project residents; and
 7. A description of how the benefits in the case of leasehold interest in the eligible property accrue to the non-profit and its resident tenants;
 8. A certification and declaration that income levels of low-income occupants are in accordance with 42 U.S.C. Section 1437 (a) (b) (2);
 9. A declaration that the corporation has been granted an exemption from income taxes under 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984.
 10. Any other information required by state law or local law or otherwise which is reasonably necessary to effectuate the purposes of this ordinance at the time the application is submitted.
- B.** The application shall include the following statements:
1. That the applicant is aware of all requirements for property tax exemption imposed by this Chapter;
 2. That the applicant's property qualified or, upon completion of the rehabilitation improvements and subsequent occupancy by low income, will qualify for exemption at the time of application approval or within 30 days of the March 1 application deadline;
 3. That the applicant acknowledges responsibility for compliance with the Code of the City of Portland regardless of whether the applicant obtains the exemption provided by this Chapter.
 4. The applicant shall furnish other information which is reasonably necessary to fulfill the objectives of this Chapter.
- C.** The applicant shall verify the information in the application, in accordance with 3.101.040 B 1 through 3 above, by oath or affirmation.

- D.** Applicants for an exemption under this Chapter shall pay an initial application fee of \$250. Applicants for annual renewal shall pay \$50. The Bureau of Planning shall pay the County Assessor any reasonable cost incurred to process the exemption onto the tax rolls. In addition to paying the basic fee, the applicant may be required to pay other reasonable costs, which are incurred by the Bureau of Planning or the County Assessor in processing the application. The Bureau of Planning shall collect the additional payment, if any, and pay itself, the County Assessor, or any other City bureau an amount equal to the additional costs incurred. If the applicant is denied, the City shall retain that portion of the application fee attributable to its own administrative costs and shall refund the balance to the applicant.

3.101.050 Review of Application.

(Amended by Ordinance No. 167356, effective Feb. 9, 1994.)

- A.** Within 30 days after the March 1 deadline for the application and payment of the application fee, the Bureau of Planning shall approve or deny the application. The application shall be approved if the Bureau of Planning finds that the property is “eligible property” within the meaning of the paragraphs 1 through 3 of Subsection B of Section 3.101.010 of this Chapter, and that the applicant has submitted the application and paid the fees pursuant to Section 3.101.040 of this Chapter. An application not acted upon within 30 days shall be deemed approved in accordance with Oregon Chapter 108, Oregon Laws 1993.
- B.** If the application is approved, the Bureau of Planning shall send written notice of approval to the applicant at his or her last-known address within 10 days after approval.
- C.** If the application is denied, the Bureau of Planning shall state in writing the reasons for denial and send the notice to the applicant at his or her last known address within 10 days after the denial. The Bureau of Planning shall retain that portion of the application fee which is attributable to its own administrative costs and shall refund the balance to the applicant.
- D.** Upon denial by the Bureau of Planning, an applicant may appeal the denial to the City Council within 30 days after receipt of the notice of denial. Appeal from the decision of the Council may be taken as provided by law.
- E.** The application shall be assigned an application and receipt number.

3.101.060 Annual Application Renewal.

(Amended by Ordinance Nos. 167356 and 178286, effective April 7, 2004.)

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- A.** Applicants for property tax exemption must apply each year no later than September 1 in order to be qualified for property tax exemption for the following tax year.
- B.** The annual application renewal fee shall be \$50.
- C.** Applications for property tax exemption under this Chapter shall apply to and may be approved for assessment years beginning on or after January 1, 1985, and before July 1, 2014.

3.101.070 Assessment Exemption.

(Amended by Ordinance Nos. 167356 and 178286, effective April 7, 2004.)

- A.** Property for which an application for a property tax exemption has been approved under the provisions of this Chapter shall be exempt from ad valorem taxation for 1 year beginning January 1 of the year immediately following the calendar year in which exemption approval has been granted, when, pursuant to ORS 307.330, the property would have gone on the tax rolls in the absence of the exemption provided for in this Chapter. The exemption provided in this Section shall be in addition to any other exemption provided by law.
- B.** Applications for property tax exemption under this Chapter shall apply to and may be approved for assessment years beginning on or after January 1, 1985, but no later than January 1, 2014.
- C.** The exemption as provided by this Chapter shall apply to the tax levy of all taxing districts in the City of Portland in which property certified for exemption is located as long as the City of Portland has achieved the approval from such taxing districts whose governing boards agree to the policy of exemption, equal to 51 percent or more of the total combined rate of taxation on the property certified for exemption.

3.101.080 Termination.

(Amended by Ordinance No. 167356, effective Feb. 9, 1994.)

- A.** If, after a certificate of qualification approving the exemption has been filed with the County Assessor, the Bureau of Planning finds that non-compliance has occurred or that any provision of this Chapter is not being complied with, the Bureau of Planning shall give notice in writing to the owner, mailed to the owner's last-known address, of the proposed termination of the exemption. The notice shall state the reasons for the proposed termination of the exemption and require the owner to appear before the Council to show cause at a specified time, not more than 20 days after mailing of the notice, why the exemption should not be terminated.

- B.** If the owner does not appear or if he or she appears and fails to show cause why the exemption should not be terminated, the exemption shall be terminated. A copy of the termination shall be filed with the County Assessor and a copy sent to the owner at the owner's last-known address, within 10 days after its adoption.
- C.** However, if the City Council finds that the non-compliance was due to circumstances beyond the control of the owner, and that the owner had been acting and could reasonably be expected to act in good faith and with due diligence, the City Council may continue the exemption or some portion for the duration of the current application.
- D.** The decision of the Council may be appealed as provided by law.
- E.** If no appeal is taken as provided in Subsection D of this Section, or 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 311.207 to 311.213, to provide for the assessment and taxation of any value not included in the valuation of the property during the period of exemption prior to termination by the Council or by a court, in accordance with the findings of the Council or the court as the assessment year in which the exemption is to terminate. The County Assessor shall make the valuation of the property necessary to permit correction of the rolls, and the owner may appeal the valuation in the manner provided under ORS 311.207 to 311.213. Where there has been a failure to comply, as provided in Subsection A of this Section, the property shall be revalued beginning July 1 of the calendar year in which the non-compliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th day of the months next following the month of correction. If not paid within such period, the additional taxes shall thereafter be considered delinquent on the date they would normally have become delinquent if the time extended on the roll or rolls in the year or years for which the correction was made.

3.101.090 Implementation.

(Amended by Ordinance No. 167356, effective Feb. 9, 1994.) The Bureau of Planning shall establish procedures and prepare forms for immediate implementation and administration of this Chapter in order to accept applications prior to the March 1 filing deadline imposed by Chapter 108 Oregon Laws 1993.

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Chapter 3.102

**PROPERTY TAX EXEMPTION FOR
RESIDENTIAL REHABILITATION AND
NEW CONSTRUCTION OF SINGLE-
UNIT HOUSING IN HOMEBUYER
OPPORTUNITY AREAS**

(Substituted by Ordinance No. 162854;
amended by 176786, effective
September 6, 2002.)

Sections:

- 3.102.010 Definitions.
- 3.102.020 Application for Limited Assessment.
- 3.102.030 Review of Application.
- 3.102.040 Certificate of Qualification.
- 3.102.050 Affordability Agreement.
- 3.102.060 Assessment.
- 3.102.070 Annual Statements.
- 3.102.080 Termination.
- 3.102.090 Designation of Homebuyer Opportunity Areas.
- 3.102.100 Sunset of the Exemption for Owner-Occupied Rehabilitation and New Single-Unit Residences in Distressed Areas.

3.102.010 Definitions.

(Amended by Ordinance Nos. 164769, 170667, 171887, 171977, 176786 and 179685, effective November 18, 2005.) As used in this Chapter:

- A. “Distressed area”** means those areas of the City designated by rule by the Bureau of Planning in consultation with the Portland Development Commission, and the Bureau of Housing and Community Development that meet the requirements set out in ORS 308.450 (1), ORS 458.005 (1), and Section 3.102.090 of this Chapter. For the purposes of administering Chapter 3.102, a "distressed area" shall hereafter in this Chapter be called a "homebuyer opportunity area" and be identified as such on any maps and application materials developed for this program.
- B. “Rehabilitation Improvements”** means modifications to existing structures which are made to achieve a condition of substantial compliance and which may include new construction as part of the overall project.

- C. “Substantial compliance”** means compliance with Title 29, “Housing Regulations.” It shall not mean that all heating, plumbing and electrical systems be replaced with systems meeting current standards for new construction.
- D. “Eligible property”** means land and the improvements thereon that meet all of the criteria in either of the following two categories:
- 1. Rehabilitated Residential Property:**
 - a.** It is either a single or multi-family residential unit or, if it is not a residential structure, it will be converted to residential units through rehabilitation improvements and a change of occupancy permit;
 - b.** The following expenditures have been made:
 - (1)** On property that is 25 years of age or more on January 1, 1986, sums were expended after September 13, 1975 and prior to January 1, 2008 for the purpose of making rehabilitation improvements and which sums in the aggregate equal or exceed five percent (5%) of the assessed value of the land and improvements as reflected in the last equalized assessment roll preceding the application date; or
 - (2)** On property, regardless of age, sums have been expended after January 1, 1990 for making rehabilitation improvements and which sums in the aggregate equal or exceed fifty percent (50%) of the cash value of the land and improvements as reflected in the last equalized assessment roll preceding the application date;
 - c.** The property provides not less than 50 percent of their accommodations for residential and not transient occupancy;
 - d.** The improvements fail to be in substantial compliance at the time the application is filed; and
 - e.** If owner occupied, the structure is located in a homebuyer opportunity area.
 - 2. Newly Constructed Single-Unit Housing:**
 - a.** The structure has one or more dwelling units and was newly constructed on or after January 1, 1990 and prior to July 1, 2015;

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- b.** The structure is located in a homebuyer opportunity area;
 - c.** Each dwelling unit within the structure is designed to be purchased by and lived in by one household;
 - d.** Each dwelling unit falls within the price limit as provided by Section 3.102.090 D.; and
 - e.** It is not a floating home, as defined in ORS 830.700, or a manufactured structure, as defined in ORS 801.333, other than a manufactured home described under ORS 197.307(5)(a) to (f).
- E.** **“Owner’s equity,”** as used in Subsection 3.102.060 D., means the greater of either:
 - 1.** Equity invested in the subject property including the owner’s original cash equity at the time of acquisition and development plus additional cash outlays to the project to cover capital improvements and fund operating deficits. Routine maintenance and repair expenses which are funded from operating reserves as well as depreciation shall not be counted towards owner’s cash investment; or
 - 2.** Current appraised value less current indebtedness of the property. The Portland Development Commission shall determine owner’s equity based on information provided by the applicant.
- F.** **“Reasonable return,”** as used in Subsection 3.102.060 D., means a ten percent return on equity.

3.102.020 Application for Limited Assessment.

(Amended by Ordinance Nos. 164769, 170667, 176786 and 179685, effective November 18, 2005.)

- A.** Any owner desiring to apply for an exemption under the terms of this Chapter shall submit an application to the Portland Development Commission no later than the December 31st preceding the tax year in which the exemption first applies.
- B.** Each applicant shall pay a non-refundable fee as provided below:
 - 1.** Single and two-family dwellings (occupancy classification R3), \$300;
 - 2.** Multi-unit dwellings (occupancy classification RI); \$300 plus \$5.00 for each dwelling unit in excess of two;

3. Plus a sum equal to the estimated appraisal costs to be incurred by the Assessors Office to the Portland Development Commission concurrent with the submission of the application, the applicant also being liable for all additional costs incurred by the City or County due to the processing of the application for exemption.

C. The application will include provisions so that the applicant can acknowledge:

1. That the applicant is aware of all requirements for limited assessment imposed by this Chapter;
2. That the applicant's property qualifies or, upon completion of the rehabilitation improvements or new construction, will qualify for limited assessment;
3. That the applicant agrees, if the structure is not newly constructed single-unit housing and is not intended to be owner-occupied, to negotiate through the Portland Development Commission rental rates to be charged for the rehabilitated rental units during the period of limited assessment;
4. That the applicant certifies, if the structure is newly constructed single-unit housing, that the household purchasing the unit has an annual gross household income not greater than one hundred percent of the area median income for a family of four as determined annually for the Portland Metropolitan Area by the United States Department of Housing and Urban Development as adjusted upward for a household of more than four persons. For the purposes of this program, household income shall be the annual gross income of the borrower or the deedholder who will occupy the eligible property;
5. That the unit, once sold, will remain owner-occupied as the principal residence of the household receiving the property tax exemption during the ten year period of the limited assessment. Hardship exception to the owner-occupancy requirement may be granted. Such hardship exceptions may include, but are not limited to, the following circumstances: active military duty outside of the area, temporary relocation to care for an ill or dying family member, or sudden relocation caused by an employer;
6. That subsequent buyers of the structure during the ten year period of the limited assessment will have an annual gross household income not greater than one hundred percent of the area median income for a family of four for the Portland Metropolitan Area as adjusted upward for a household of more than four persons; and

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7. That the applicant acknowledges responsibility for compliance with the Code of the City of Portland regardless of whether the applicant obtains the assessment provided by this Chapter.
- D. The applicant shall agree to permit the Portland Development Commission to have executed and recorded in the county real estate records a Subsequent Home-Buyer Notice stating that the property is subject to a limited tax assessment and that any subsequent purchaser is bound by the requirements of this Chapter.
- E. The applicant shall furnish other information which is reasonably necessary to fulfill the objectives of this Chapter. The application shall be assigned an application number.
- F. If any of the application criteria noted in this Section are violated, the Portland Development Commission shall terminate the limited assessment according to the provisions of Section 3.102.080 Termination.
- G. An application for exemption that seeks a tax year beginning or before July 1, 2005, as the first year of the exemption may be approved or denied by the Portland Development Commission within 30 days following November 4, 2005. If an application is approved under this Section, the first tax year of the exemption shall be the tax year beginning July 1, 2005.

3.102.030 Review of Application.

(Amended by Ordinance Nos. 170667, 171887, 176786 and 179685, effective November 18, 2005.)

- A. Within 90 days after receipt of a completed application and payment of all appropriate fees, the Portland Development Commission shall approve application if it finds that the property is an eligible property according to the provisions of Section 3.102.010 D. and the application meets all the requirements of this Chapter. Written notice of approval shall be sent to the applicant at his or her last known address within 10 days of approval. In the case of a residential structure to be rehabilitated, the written notice shall verify the structure's noncompliance and specify what rehabilitation improvements must be completed in order that the property be in substantial compliance.
- B. For newly constructed single-unit housing or owner-occupied single unit housing to be rehabilitated, the Portland Development Commission shall determine whether the property location is within a homebuyer opportunity area at the time of application. The Portland Development Commission may approve an application for limited property tax exemption for an eligible structure constructed prior to July 1, 2015 or rehabilitated prior to July 1, 2008 within a homebuyer

opportunity area. Construction or rehabilitation must begin while the area is designated as a homebuyer opportunity area in order to qualify.

1. The Portland Development Commission shall also determine that the new single-unit housing will have a market value, including the cost of the land, of no more than 120 percent of the median sales price of single family homes located within the city. Such price shall be determined by the Bureau of Planning as provided by Section 3.102.090 D.
2. The issuance of building permits shall indicate compliance with the Code of the City of Portland and shall be sufficient to meet the public benefits and design standards as described in ORS 458.010 (4)(b)(c). All other required city reviews that are applicable shall not be waived as part of an application for property tax exemption.
3. The approval shall be in the form of a resolution that shall contain the owner's name and address, a description of the property or the assessor's property account number and the specific conditions upon which the approval of the application is based. The resolution shall direct the County Assessor to exempt the structure from ad valorem taxes as provided in Section 3.102.060 C., pending approval of the certificate of qualification by the Portland Development Commission as provided in Section 3.102.050. A single resolution listing all approved properties and submitted annually for Council consideration before each upcoming tax year shall be sufficient to meet this requirement.

- C. If the application is denied, the Portland Development Commission shall state in writing the reasons for denial, and send it to the applicant within 10 days of denial. An applicant may appeal the denial to the City Council within 30 days after receipt of notice of denial.

3.102.040 Affordability Agreement.

(Amended by Ordinance No. 171977, effective February 4, 1998.)

- A. Before approval of an application for nonowner-occupied rehabilitated structures, an applicant shall execute an Affordability Agreement with the Portland Development Commission, designating the number of units, their bedroom size and rents to remain affordable during the term of the limited assessment. Designated units shall be occupied by and rented at rates affordable to tenants with household income of 60% of median family income or less. At least 20% of the units in a project containing five or more units, 100% of the units in case of a single family house, 50% of the units in a duplex, 30% of the units in a triplex, and 25% of the units in a fourplex shall be affordable. The applicable median incomes and monthly rental rates are determined annually by the Portland

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Development Commission based on data annually reported by the U.S. Department of Housing and Urban Development.

- B.** The Affordability Agreement shall require the applicant to report annually to the Portland Development Commission the property's occupancy information, rental rates, and related property information which is deemed necessary to monitor compliance during the period of limited property tax assessment. Annual reports are to be filed with the Portland Development Commission no later than 60 days following the end of the fiscal year used by the owner for the purpose of reporting federal income tax.
- C.** At the Portland Development Commission's option, the Affordability Agreement may be recorded or secured by a covenant against the property receiving limited property tax assessment. The benefit of this limited property tax assessment may be transferred to a new property owner for the remaining term of the limited assessment provided the new owner executes a new Affordability Agreement with the Portland Development Commission.
- D.** Should the applicant receive other City of Portland funds or benefits requiring a similar Affordability agreement, the more restrictive agreement shall be used to determine compliance with this ordinance.

3.102.050 Certificate of Qualification.

(Amended by Ordinance Nos. 164769, 170667, 171977, 176786 and 179685, effective November 18, 2005.)

- A.** Upon completion of the rehabilitation improvement or the new construction, the applicant shall file with the Portland Development Commission an application for a certificate of qualification and, in the case of a rehabilitated structure intended to be nonowner-occupied, a copy of the Affordability Agreement required by 3.102.040.
- B.** Within 30 days of receipt of the application, the Portland Development Commission shall determine whether the property qualifies for limited assessment under this Chapter. Approval shall be given if one of the following two alternatives is satisfied:
 - 1.** The residential rehabilitation improvements were completed within two (2) years from the date of application for limited assessment, the applicant has paid all the appropriate fees, and filed, if required, the appropriate Affordability Agreement; or
 - 2.** The newly constructed single-unit housing was completed within two (2) years from the date of application for limited assessment, construction

began while the area was designated a homebuyer opportunity area, the applicant has paid all appropriate fees, and the new construction complies with the code of the City of Portland.

- C.** A copy of the certificate of qualification shall be sent to the applicant, and filed by the Portland Development Commission with the Assessor within 20 days. In addition, copies of the application for limited assessment; the notice of approval; the Affordability Agreement (if appropriate); the Resolution of approval (if appropriate); and the application for a certificate of qualification shall also be filed with the Assessor and shall be numbered with the applicant's application number, and shall be delivered in a single transmittal.
- D.** If it is determined that the rehabilitation or new construction was not completed within two (2) years of application date or the property is otherwise not qualified for the limited assessment provided for under the terms of this Chapter, the Portland Development Commission shall so state in writing, and send this determination to the applicant within 40 days of the receipt of the application for a certificate of qualification. An applicant may appeal the denial to the City Council within 30 days of the mailing of the notice required by this Subsection.

3.102.060 Assessment.

(Amended by Ordinance Nos. 164769, 170667, 176786, and 179685 effective November 18, 2005.)

- A.** As provided by ORS 308.459, an eligible rehabilitated residential property shall be assessed at no more than its assessed value as it appears in the last equalized assessment roll next preceding the date on which the application for limited assessment is filed with the Portland Development Commission as provided for in 3.102.020. If the certificate of qualification is filed with the Assessor after December 31 but prior to April 1, the limited assessment shall apply with respect to the first assessment roll equalized after that date; or if the certificate of qualification is filed after April 1 but prior to January 1, the limited assessment shall apply as of the following January 1, and shall continue to apply thereafter for a total of 10 consecutive assessment rolls.
- B.** As provided by ORS 308.456 (4), the limited assessment provided by this Chapter does not apply to increases in assessed valuation made by the assessor or by lawful order of a County Board of Equalization, the Department of Revenue or a court, to a class of property throughout the county or any specific area of the county to achieve the uniformity of assessment or appraisal required by ORS 308.232.
- C.** As provided by ORS 458.020, eligible newly constructed single-unit housing shall be exempt from ad valorem taxation for no more than 10 successive tax years

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beginning July 1 of the first tax year following approval of the application under Section 3.102.020 of this Chapter. The exemption provided by this Chapter shall be in addition to any other exemption provided by laws for the property. However, the amount of assessed value exempted under this Chapter may not exceed the real market value of the structure determined as of the date that the property is inspected for purposes of making a determination under this Chapter.

- D.** If all residential units in a multiple-unit housing project are subject to a low income rental assistance contract with an agency of the state or federal government, an exemption provided under the terms of this Chapter may be extended beyond the 10 year limitation set in Subsection A above to December 31 of the assessment year during which the termination date of the contract falls. The Portland Development Commission staff shall review all applications for extension. Approval by the Portland Development Commission staff shall be based on findings that:
- 1.** The applicant has made reasonable efforts to obtain approval from the appropriate government agency for an increase in the allowable contract rent. Evidence of reasonable efforts shall include documentation showing contact with appropriate agencies and attempts to obtain written responses from the agency indicating their decision regarding modification of the rental contract.
 - 2.** The loss of the exemption will cause an increase in operating expenses to the extent that operating income for the property will be insufficient to cover operating expenses plus a reasonable return on the owner's equity in the projects. The evaluation of these criteria will be based upon projected average annual income and expense requirements over the extension period; and
 - 3.** The tax exemption is necessary in order to prevent displacement of low- and moderate-income tenants or of a low and moderate-income housing resource.
- E.** The Portland Development Commission staff, as part of the approval process under Section 3.102.060 D., may require an independent financial audit of the previous ten year tax abatement period as well as forecasts for the requested extension period. If the annual financial statements submitted by the applicant are found to be incomplete and inaccurate, the applicant will be responsible for audit fees. A denial of an extension requested under 3.102.060 D. may be appealed to the City Council. The appeal shall be filed within 30 days of the date of the mailing of the notice denying the extension.

- F.** In order to maintain an exemption granted under Section 3.102.060 D the applicant, at least every three years, shall make reasonable efforts as defined in Section 3.102.060 D.1. to obtain increases in the allowable contract rents and submit documentation of such evidence to the Portland Development Commission staff.
- G.** The Portland Development Commission staff shall review the applicant's compliance with the conditions set forth in Section 3.102.060 D. every five years. If the average annual rate of return to the period exceeds a reasonable rate of return as defined in Section 3.102.010 F., the exemption shall terminate. An applicant may appeal a termination to the City Council within 30 days of the date of the mailing of the notice to terminate.

3.102.070 Annual Statements..

(Amended by Ordinance No. 171977, effective February 4, 1998.)

- A.** Within 60 days following the end of the fiscal year as used by the owner for purpose of reporting federal income tax and during the period that the certificate is in effect, the owner of the rehabilitated property that is nonowner-occupied shall file with the Portland Development Commission the following:

 - 1.** A statement of occupancy and vacancy of the rehabilitated property during the prior 12 month period; and
 - 2.** A statement of all rental rates, increases thereto and operating costs, during the prior 12 month period; and
 - 3.** An attestation by the owner that the rehabilitated property has been held continuously for the production of rental income since the date of the certificate of qualification.
 - 4.** A Rental/Occupancy Report listing each unit and the rental rate charged and identifying each affordable unit type based on the number of bedrooms and/or floor area, the rent charged, the occupant's household size, the occupant's household annual income, and whether utilities are included as part of the rental charge.
 - 5.** Any other information deemed necessary in determining compliance with the Affordability provisions of this ordinance.
- B.** Within 30 days of receiving the owner's Rental/Occupancy Report, the Portland Development Commission shall advise the Assessor of whether to continue or terminate assessment limitation.

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- C.** Should the property be regulated by another agreement regarding affordability and/or operating performance as conditioned by other public funds, the more restrictive agreement shall be used to determine compliance with the ordinance.

3.102.080 Termination.

(Amended by Ordinance Nos. 170667, 171887, 171977, 171999, 176786 and 179685, effective November 18, 2005.)

- A.** If subsequent to the issuance of a certificate of qualification, it is determined by the Portland Development Commission that the new construction was not completed on or before July 1, 2015, or the rehabilitation improvements were not completed on or before January 1, 2008, or that any other provision of this Chapter is not being complied with, the Portland Development Commission shall give notice in writing to the owner, mailed to the owner's last known address, of the proposed termination of the limited assessment. The written notice shall state the reasons for the proposed termination and shall provide a statement of the owner's right to appear before the Portland Development Commission to show cause, if any, why the exemption should not be terminated. The notice shall provide instructions describing how the owner may request a show-cause hearing before the Portland Development Commission. Upon request by the owner, the Portland Development Commission shall schedule a hearing for a date not less than 20 days from the date of the request.
- B.** If the owner chooses not to appear, or if they appear and fail to show cause why the limited assessment should not be terminated, the City shall adopt an ordinance or resolution stating its findings and terminating the limited assessment. The Portland Development Commission shall file a copy of the ordinance or resolution with the County Assessor and shall send a copy to the owner at the owner's last known address within 10 days of the Council's action.
- C.** If, after application has been approved, the City or County Assessor discovers that the single-unit housing or a portion of the single-unit housing is changed to a use that is other than single-unit housing:

 - 1.** The limited assessment granted the single-unit housing or portion under ORS 458.005 and 458.015 to 458.065 shall terminate immediately, without right of notice or appeal;
 - 2.** The property or portion shall be assessed and taxed as other property similarly situated is assessed and taxed; and
 - 3.** Notwithstanding ORS 311.235, there shall be added to the general property tax roll for the tax year next following the discovery, to be collected and distributed in the same manner as other real property tax, an

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amount equal to the difference between the amount of tax due on the property and the amount of the tax that would have been due on the property had it not been exempt under ORS 458.005 and 458.015 to 458.065 for each of the years, not to exceed the last 10 years, during which the property was exempt from taxation under ORS 458.005 and 458.015 to 458.065.

- a.** If, at the time of discovery, the property is no longer exempt, additional taxes shall be imposed as provided in this section, but the number of years that would otherwise be used to compute the additional taxes shall be reduced by one year for each year that has elapsed since the year the property was last granted exemption.
 - b.** The assessment and tax rolls shall show potential additional tax liability for each property granted a limited assessment under ORS 458.005 and 458.015 to 458.065.
 - c.** Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate.
- D.** If the City finds that the new construction was not completed on or before July 1, 2015 or the rehabilitation improvements were not completed by July 1, 2008, due to circumstances beyond the control of the owner, and that the owner had been acting and could reasonably be expected to act in good faith and with, due diligence, the City may extend the deadline for completion for a period not to exceed an additional 12 consecutive months.
- E.** The decision of the Council may be appealed as provided by ORS 34.010 to 34.100.
- F.** As provided by Subsection (4) of ORS 308.477, if no appeal is taken as provided in Subsection D. of this Section, or 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 311.207 to 311.213, to provide for the assessment and taxation of any value not included in the valuation of the new construction or there habilitation improvements during the period of limited assessment prior to termination by the Council or by a court, in accordance with the findings of the Council or the court as to the assessment year in which the limited assessment is to terminate. The Assessor shall make the valuation of the property necessary to permit correction of the rolls, and the owner may appeal the valuation in the manner provided under ORS 311.207 to 311.213. Where there has been a failure to comply, as provided in Subsection A of this Section, the property shall be revalued beginning January 1 of the assessment year in which the noncompliance first occurred. Any additional taxes becoming due shall be

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payable without interest if paid in the period prior to the 16th day of the month next following the month of correction. If not paid within such period, the additional taxes shall thereafter be considered delinquent on the date they would normally have become delinquent if timely extended on the roll or rolls in the year or years for which the correction was made.

3.102.090 Designation of Homebuyer Opportunity Areas.

(Amended by Ordinance Nos. 170667, 176786 and 179685, effective November 18, 2005.)

- A.** The Bureau of Planning shall be the agency responsible for designating homebuyer opportunity areas. The Portland Development Commission and the Bureau of Housing and Community Development shall be consulted in the designation process. The designation of such areas shall occur in the form of a public hearing conducted before the City Planning Commission through a legislative process appealable to City Council. If there is no appeal within 30 days of the decision by the Planning Commission, the decision shall be final. The Bureau of Planning shall make available maps indicating current homebuyer opportunity areas. The designation of the first homebuyer opportunity areas shall be conducted as nearly as possible in conjunction with the adoption of this ordinance implementing tax exemption in such designated areas. From the date of the first designation, a review of the areas for possible amendment of the boundaries of the homebuyer opportunity areas shall occur at least every three years.
- B.** The criteria for designating homebuyer opportunity areas shall include a consideration of the following factors:

 - 1.** The area is primarily a residential area of the city which is detrimental to the safety, health and welfare of the community by reason of deterioration, inadequate or improper facilities; the existence of unsafe or abandoned structures, including but not limited to a significant number of vacant or abandoned single or multi-family residential units; or any combination of these or similar factors; and,
 - 2.** The incentive of limited property tax exemption in a homebuyer opportunity area will help to carry out adopted policies, or area-wide or district plans of the city related to housing or neighborhood revitalization.
- 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.)

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.
3.103.030	Application Procedure.
3.103.040	Public Benefits.
3.103.045	Approval Criteria.
3.103.050	Review of Application.
3.103.055	Rate of Return Analysis.
3.103.060	Exemption.
3.103.070	Termination.
3.103.080	Extension of Deadline.
3.103.090	Implementation.

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

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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.)

- 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:

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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
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.
 - 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

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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. 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.

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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 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

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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:
 - 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

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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:
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.
 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

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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.)

- 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:

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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.

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

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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.

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

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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

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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 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.

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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.

- 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.

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- 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

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,

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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.

Chapter 3.105

BULL RUN ADVISORY COMMITTEE

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

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

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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.

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

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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.

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.

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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;

- 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

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

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- 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.
 - 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.
 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

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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 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.

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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.

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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
 - 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.

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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:

- 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;

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- 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.

Chapter 3.114

**OFFICE OF CABLE
COMMUNICATIONS
AND FRANCHISE MANAGEMENT**

(Added by Ordinance No. 149053; amended by
Ordinance Nos. 151338 and 160424,
effective February 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.

(Amended by Ordinance No. 181155, effective August 17, 2007.)

- 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 Mt. Hood Cable 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 Management and Finance and other City agencies and bureaus.

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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

MT. HOOD CABLE REGULATORY COMMISSION

(Chapter replaced by Ordinance No. 181155,
effective August 17, 2007.)

Sections:

3.115.010	Definitions.
3.115.020	Cable Regulatory Commission.
3.115.030	General Powers & Duties.
3.115.040	Portland Community Media.
3.115.060	Annexations.
3.115.070	Cable Television Consumer Protection.
3.115.080	Definitions.
3.115.090	Local Office and Office Hours.
3.115.100	Telephone Answering Standard.
3.115.110	Installations, Disconnections, Outages And Service Calls.
3.115.120	Notice Requirements.
3.115.130	Billing.
3.115.140	Reporting.

3.115.010 Definitions.

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

- A. "Agreement"** means the Intergovernmental Agreement creating the Mt. Hood Cable Regulatory Commission among and between the various Jurisdictions, dated December 24, 1992, including later amendments approved by the City Council.
- B. "Commission"** means the Mt. Hood Cable Regulatory Commission.
- C. "Franchise"** means an ordinance approved by the City Council authorizing use of the City's public right-of-way for operation of a cable communications system.
- D. "Grantee"** means any person authorized by a franchise agreement to construct, operate and maintain a cable communications system within the City of Portland.

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3.115.020 Cable Regulatory Commission.

- A.** The City is a party to the Intergovernmental Agreement dated December 24, 1992, as modified by subsequent amendments, creating the Mt. Hood Cable Regulatory Commission. The Intergovernmental Agreement establishes the responsibilities and powers of the Commission, as delegated by the various participating jurisdictions. The City Council approved the City of Portland's participation in the MHCRC by Ordinance No. 166168, enacted on January 20, 1993.
- B.** As provided in the Agreement, the City is represented by three members on the Commission, appointed by the Commissioner in Charge of the Office of Cable Communications and Franchise Management and confirmed by the Council. Appointments are for staggered terms of 3 years. When an interim vacancy occurs, the Commissioner in Charge appoints, and the Council confirms, a member to fill the balance of the unexpired term. All members representing the City must be residents of the City. The Commissioner in Charge shall appoint members to the Commission so as to provide for an appropriate level of expertise taking into account the powers and duties of the Commission and in making appointments shall take into consideration the desirability of diverse representation, including without limitation, of racial and ethnic minorities, gender, different geographic areas, and different socioeconomic groups. All members shall serve without compensation from the City or from any grantee. No member may have an ownership interest in any grantee. The Commissioner in Charge may remove a member appointed by the City from the Commission at any time, subject to approval by the Council.

3.115.030 General Powers & Duties.

- A.** To the extent provided in the Agreement and in this Chapter, the Commission may exercise all cable communications system regulatory powers of the City over grantees operating within the City, whether such powers are granted to the City by law or under franchises issued to grantees.
- B.** The Commission shall act in an advisory capacity to the City Council through the Commissioner in Charge of the Office of Cable Communications and Franchise Management on all other matters pertaining to franchise agreements to construct, maintain and operate cable communications systems or proposed franchise agreements for such systems.
- C.** All powers granted to the Commission by the Agreement shall be subject to the provisions of franchises issued to grantees.. In the event of any conflict between the Agreement and a grantee franchise, the provisions of the franchise shall prevail.

- D.** The Commission may adopt such regulations as it deems necessary or desirable in order to exercise its powers and carry out its duties under the Agreement and this Chapter.

3.115.040 Portland Community Media.

The Mayor and the Commissioner in Charge of the Office of Cable Communications and Franchise Management shall each appoint one member of the board of directors of Portland Community Media, for staggered terms of two years. All appointments shall be confirmed by the Council. In appointing these directors, consideration shall be given to representation on the board of directors of the fields of arts, education, government, and community media; and of diverse representation including, without limitation, racial and ethnic minorities, non-English speaking people, gender, and low-income people. In addition, the Commission shall appoint one non-voting ex-officio director of the Portland Community Media board of directors.

3.115.060 Annexations.

- A.** In the event the City annexes territory for which another public body having jurisdiction to issue a franchise has issued a franchise to construct, operate and maintain a cable communications system, then franchisee's rights and obligations shall continue after annexation as they existed before annexation until expiration of that franchise, except that:
- 1.** After annexation the City shall have all rights under the franchise of the issuing public body, including without limitation all rights to regulate, to collect and use franchise fees, regulation of system construction and operation within the annexed area, and rights to insurance, indemnification and other protections; and
 - 2.** After annexation the franchisee's obligations under the franchise regarding system construction and operation and other franchise requirements within the annexed area shall be to the City rather than to the issuing public body.
- B.** Nothing in this Section shall be deemed to modify the rights or obligations of the City or grantees under other franchises.

3.115.070 Cable Television Consumer Protection.

On behalf of the City, the Commission shall enforce the cable television consumer protection standards set forth in Sections 3.115.080 through 3.115.140.

3.115.080 Definitions.

Unless the context indicates otherwise, words used in Sections 3.115.080 through 3.115.140 have the following meanings:

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- A. “Normal Business Hours”** means those hours during which most similar businesses in the City are open to serve customers. In all cases, Normal Business Hours must include some evening hours at least one night per week and some weekend hours.
- B. “Normal Operating Conditions”** means those service conditions which are within grantee’s control. Conditions which are not within grantee’s include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Conditions which are ordinarily within the grantee’s control include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system. Grantees must adjust staffing and operations to maintain compliance with the service standards in anticipation of events and conditions within grantee’s control.
- C. “Service Interruption”** means the loss of picture or sound on one or more cable channels.

3.115.090 Local Office and Office Hours.

Grantees shall have customer service center and bill payment locations open at least during Normal Business Hours. Grantees shall locate customer service center and bill payment offices at locations that are convenient to subscribers and the public. Grantee customer service centers must be adequately staffed and able to respond to subscribers and the public not less than 50 hours per week, with a minimum of nine hours per day on weekdays and five hours on weekends excluding legal holidays. As used herein, "adequately staffed" means customer service representatives are available to respond to customers who come to the service center in at least the following ways:

- A.** To accept payments;
- B.** To exchange or accept returned converters or other company equipment;
- C.** To respond to inquiries; and
- D.** To schedule and conduct service or repair calls.

3.115.100 Telephone Answering Standard.

- A. Cable system office hours and telephone availability.** Grantees shall maintain a local, toll-free or collect call telephone access line which shall be available to its subscribers 24 hours a day, seven days a week. Grantees shall provide, in at least one prominent location, an easily identifiable telephone number for local customer service on all bills, account statements or statements of service to

grantee subscribers. Toll-free telephone lines, either staffed or with answering capability, providing at least emergency referral information, must be operational 24 hours a day, including weekends and holidays. Grantee must have trained representatives available to respond to customer telephone inquiries during Normal Business Hours. After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received by grantee after Normal Business Hours must be responded to by a trained representative on the next business day.

- B. Telephone Answering Time.** Under Normal Operating Conditions, telephone answer time by grantee's customer representatives including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. Grantees shall meet these standards no less than ninety (90) percent of the time under Normal Operating Conditions, measured on a calendar quarterly basis.
- C. Busy Phones.** Under Normal Operating Conditions, the customer shall receive a busy signal less than three (3) percent of the time.

3.115.110 Installations, Disconnections, Outages And Service Calls.

Under Normal Operating Conditions, grantees shall meet each of the following standards shall be met no less than ninety five (95) percent of the time measured on a quarterly basis:

- A.** Standard installations shall be performed within seven (7) business days after an order has been placed.
- B.** Under Normal Operating Conditions, grantee shall begin work on Service Interruptions promptly and no later than 24 hours after the interruption becomes known. Grantee must begin working on other service problems the next business day after notification of the service problem. Working on Service Interruptions must be more than merely acknowledging that a service interruption has occurred.
- C.** The appointment alternatives for installations, service calls and other installation activities shall be either a specific time or, at maximum, a four-hour time block during Normal Business Hours. Grantee may schedule service calls and other installation activities outside of Normal Business Hours for the express convenience of the customer.
- D.** Grantee shall be deemed to have honored a scheduled appointment under the provisions of this section when a technician arrives within the agreed upon time and, if the subscriber is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by the grantee.

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- E.** Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. Rescheduling an appointment is an independent obligation and does not necessarily excuse the missed appointment.
- F.** If grantee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer shall be contacted. The appointment shall be rescheduled, as necessary, at a time which is convenient for the customer.

3.115.120 Notice Requirements.

- A.** Notifications to subscribers. Grantee shall provide written information on each of the following areas at the time of service installation, at least annually to all subscribers, and at any time upon request:
 - 1.** Products and services offered;
 - 2.** Prices and options for programming services and conditions of subscription to programming and other services;
 - 3.** Installation and service maintenance policies;
 - 4.** Instructions on how to use the cable service;
 - 5.** Channel positions programming carried on the system; and,
 - 6.** Billing and complaint procedures, including the address and telephone number of the City's Office of Cable Communications and Franchise Management.
- B.** Grantee shall notify customers of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the grantee. In addition, grantee shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by this Section. Grantees are not required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

3.115.130 Billing.

- A. Bill Statements.** Grantee bills shall be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills shall also clearly delineate all activity during the billing period, including optional charges, rebates and credits. In case of a billing dispute, grantee must respond to a written complaint from a subscriber within seven (7) calendar days.
- B. Refunds.** Grantee shall issue refund checks promptly to customers, but no later than either the customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier. Grantee may withhold a refund pending the customer returning the equipment supplied by grantee if service is terminated.
- C. Credits.** Grantee shall issue credits for service no later than the customer's next billing cycle following the determination that a credit is warranted.

3.115.140 Reporting.

Grantees shall file reports to the Commission on a quarterly basis showing the performance of grantee customer service standard obligations under Sections 3.115.080 through 3.115.140. The quarterly reports shall cover the periods January 1 through March 31; April 1 through June 31; July 1 through September 31; and October 1 through December 31. The reports shall be due no later than 30 days following the end of a quarter. The reports shall include, at a minimum, figures and narrative indicating performance of the following standards for:

Local office hours

Telephone call center hours

Telephone answering

Busy signal statistics

Standard installations

Service interruptions

Appointment windows: made, cancelled, and rescheduled

Notice requirements

Billing (refunds and credits)

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Chapter 3.116

WATERWAYS ADVISORY COMMITTEE

(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,
 - 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

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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;
 - 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 subject property and shall file a proposed assessment ordinance, with a list of proposed assessments attached, with the City Council. The amount of assessment

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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.
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

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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.

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

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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.
 - 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.

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.

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- 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.

(Amended by Ordinance No. 181352, effective October 10, 2007.)

- A.** “Director” shall mean the director of the Portland Office of Emergency Management.
- B.** “Disaster” means an occurrence of or threat of imminent widespread or severe damage, injury, or loss of life or property regardless of cause which in the determination of the Mayor or designated public official, causes or will cause significant damage as to warrant disaster assistance from outside City resources to supplement the efforts and available resources of the City to alleviate the damage, loss, hardship or suffering caused.
- C.** “Disaster Policy Council” is the City’s policymaking body which advises the Mayor on public policy regarding pertinent decisions necessary in a disaster event. The DPC meets twice a year at the change of the President or at the Mayor’s request.
- D.** “Emergency” means any natural, technological or human caused, 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, flood, earthquake, severe weather, drought, volcanic activity, explosion, 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 Coordination Center” is the centralized location where local officials may coordinate activities and implement direction from the Mayor. The primary responsibility of the emergency coordination center is to provide information, policy direction, prioritization of resources, and coordination for any emergency or disaster.
- F.** “Emergency Management Committee” shall be designated bureau emergency coordinators established to develop and implement plans, programs and training exercises to promote integrated disaster response efforts.
- G.** “Emergency Operations Center” is a location where information from one bureau is collected to determine the tactical decisions and use of resources relative to the bureau’s mission, and responsibilities.

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.

(Amended by Ordinance No. 181352, effective October 10, 2007.) The purpose of the Portland Office of Emergency Management is to provide comprehensive emergency management planning in preparing for, mitigating against, responding to and recovering from emergencies and disasters. The Portland Office of Emergency Management has authority to coordinate City preparedness, mitigation, response and recovery actions.

3.124.040 Organization.

(Amended by Ordinance Nos. 180917 and 181352, effective October 10, 2007.) The Portland Office of Emergency Management (POEM) shall be directly responsible to the Mayor and, thereafter, to the City Council. All City Bureaus shall provide the POEM with necessary information and assistance in the times of emergency or disaster.

3.124.050 Director's Powers and Duties.

(Amended by Ordinance No. 181352, effective October 10, 2007.) 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 prevention, mitigation, response and recovery to and from natural and human caused emergencies and disasters;

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- C.** Lead and coordinate the activities of the City's Emergency Management Committee and the Emergency Management Steering Committee;
- D.** Oversee and coordinate development and maintenance of the City's overall Comprehensive Emergency Management Plan;
- E.** Be responsible for integrating emergency preparedness, mitigation, response and recovery 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.

(Amended by Ordinance No. 181352, effective October 10, 2007.)

- A.** The Director may appoint an Operations Manager 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 or specially funded projects.
- 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 Operations Manager shall succeed to all duties and responsibilities of the Director, including those specified by ordinance.
- D.** The line of succession for the POEM is: Director, Operations Manager, Training and Exercises Manager, Planning Manager, Community Emergency Services Manager, Senior Fire Liaison.

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.

(Amended by Ordinance No. 181352, effective October 10, 2007.) There is hereby created a Disaster Policy Council (DPC) charged with providing policy oversight of integrated citywide emergency preparedness activities and initiatives and decision making guidance in response to citywide emergencies and disasters.

3.125.020 Powers and Duties.

(Amended by Ordinance No. 181352, effective October 10, 2007.) The Disaster Policy Council is the City's policymaking body which advises the mayor on public policy regarding pertinent decisions necessary in a disaster event. The DPC meets twice a year (January and July) at the change of the President of the Council or at the Mayor's request.

3.125.030 Membership.

(Amended by Ordinance No. 181352, effective October 10, 2007.) 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 Auditor;
- D. Chief Administrative Officer;
- E. City Attorney;
- F. Director, Portland Office of Emergency Management;

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- G.** Chief of Portland Fire & Rescue;
- H.** Chief of Portland Police Bureau;
- I.** Director, Portland Office of Transportation;
- J.** Director, Water Bureau;

3.125.040 Staff Support to Disaster Policy Council.

(Amended by Ordinance No. 181352, effective October 10, 2007.) The Portland Office of Emergency Management shall provide staff support to the Disaster Policy Council.

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.
- 3.126.050 Emergency Management Steering Committee.

3.126.010 Powers and Duties of the Emergency Management Committee.

(Amended by Ordinance No. 181352, effective October 10, 2007.) There is hereby created an Emergency Management Committee, 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.

(Amended by Ordinance No. 181352, effective October 10, 2007.) The Emergency Management Committee shall be chaired by the Director, Portland Office of Emergency Management, or in his/her absence by the POEM Operations Manager. 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 POEM Emergency Manager.

3.126.030 Membership.

(Amended by Ordinance No. 181352, effective October 10, 2007.) The Emergency Management Committee shall consist of designated bureau emergency coordinators from each city bureau. Bureau representatives 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.

3.126.050 Emergency Management Steering Committee.

(Added by Ordinance No. 181352, effective October 10, 2007.) The Emergency Management Steering Committee (EMSC) membership consists of representatives from Water, Fire, Police, Environmental Services, Parks, Transportation/Maintenance, Emergency Communications and POEM. The EMSC will provide input into projects and policies to integrate effective practices in emergency preparedness and response.

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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.

(Amended by Ordinance No. 180917, effective May 26, 2007.) The Bureau of Portland Fire and Police Disability and Retirement shall be directly responsible to its Board of Trustees and to the Mayor. Pursuant to Chapter 5 of the Charter, the FPDR Board shall have the powers listed in Section 5-202 of the Charter. Other bureaus may provide FPDR with necessary information and assistance in accordance with Chapter 5 of the Charter and include, but are not limited to, Portland Fire & Rescue, the Bureau of Police, and the Bureau of Human Resources.

3.127.040 Administrator's Powers and Duties.

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

- A. Be the Director of the Bureau of Portland Fire and Police Disability and Retirement, in accordance with Charter Chapter 5 Section 5-202;
- B. Be responsible for administering the terms of the FPDR plan;

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

3.127.050 Staff and Delegation.

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

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Chapter 3.128

Office of Human Relations

(Added by Ordinance No. 181670,
effective March 19, 2008.)

Sections:

- 3.128.010 Creation.
3.128.020 Functions.

3.128.010 Creation

There is hereby established an Office of Human Relations. The Office shall be administered by a Director to be appointed by the Mayor and confirmed by the Council. The Director shall serve at will and may be removed by the Council upon the request of the Mayor, after consideration of the recommendation of the Human Rights Commission. The Office shall have such other employees as the Council may provide. The Office shall be assigned to the Mayor's portfolio and the Director shall report to the Mayor.

3.128.020 Functions

- A.** The Office shall be responsible for staffing the Human Rights Commission in accordance with policy direction and decisions from the Commission as well as such other matters and committees as Council may from time to time assign to the Office.
- B.** The Office shall be responsible for supporting and facilitating the Human Rights Commission's mission of advocating for the rights of all people and for the resolution of all issues rooted in bias and discrimination through education, research, advocacy and intervention.

Chapter 3.129

Human Rights Commission

(Added by Ordinance No. 181670,
effective March 19, 2008.)

Sections:

- 3.129.010 Creation.
- 3.129.020 Mission.
- 3.129.030 Jurisdiction.

3.129.010 Creation

There is hereby created in the City of Portland a Human Rights Commission. The Director of the Office of Human Relations shall also serve as the Director of the Commission. The Commission shall consist of 11 to 15 members. All members shall serve without compensation. Appointments are for staggered terms of three years. No member may serve more than two consecutive three year terms. When an interim vacancy occurs, a Human Rights Commission workgroup – after consultation with the Office of Human Relations – nominates, the Mayor appoints, and the Council confirms, a member to fill the balance of the unexpired term. Members shall be appointed by the Mayor so as to provide representation from a reasonably broad spectrum of the community, including without limitation the following factors: areas of expertise, advocacy experience, community involvement, profession, education, race, ethnicity, gender, gender identity, sexual orientation, national origin, age, religion and geographic identification. Members must live, work, worship or be enrolled in school within the City of Portland. The Mayor may remove a member from the Commission at any time, with the recommendation of the Commission and subject to approval by the Council.

3.129.020 Mission

The Human Rights Commission shall work to eliminate discrimination and bigotry, to strengthen intergroup relationships and to foster greater understanding, inclusion and justice for those who live, work, study, worship, travel and play in the City of Portland. In doing so, the Human Rights Commission shall be guided by the principles embodied in the United Nations Universal Declaration of Human Rights.

3.129.030 Jurisdiction

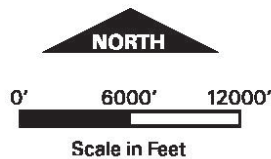
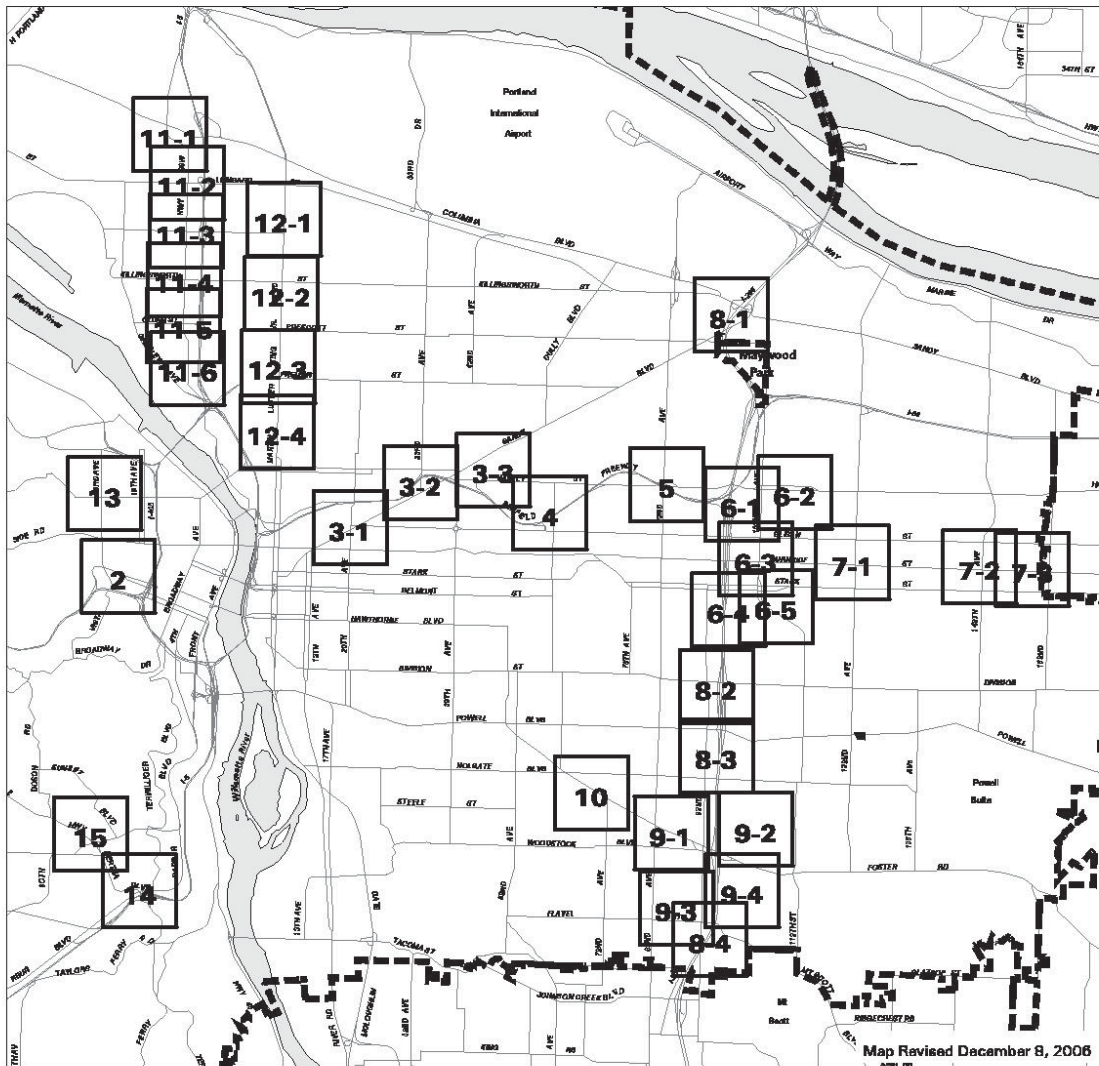
The jurisdiction of the Commission will include all practices and incidents occurring in the City of Portland which affect people who live, work, study, worship, travel or play in the City. The Commission shall have jurisdiction to address such practices and incidents through education, research, advocacy and/or intervention, but shall not have civil rights enforcement authority.

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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)

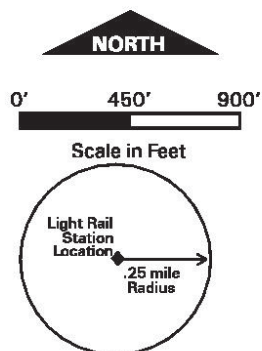
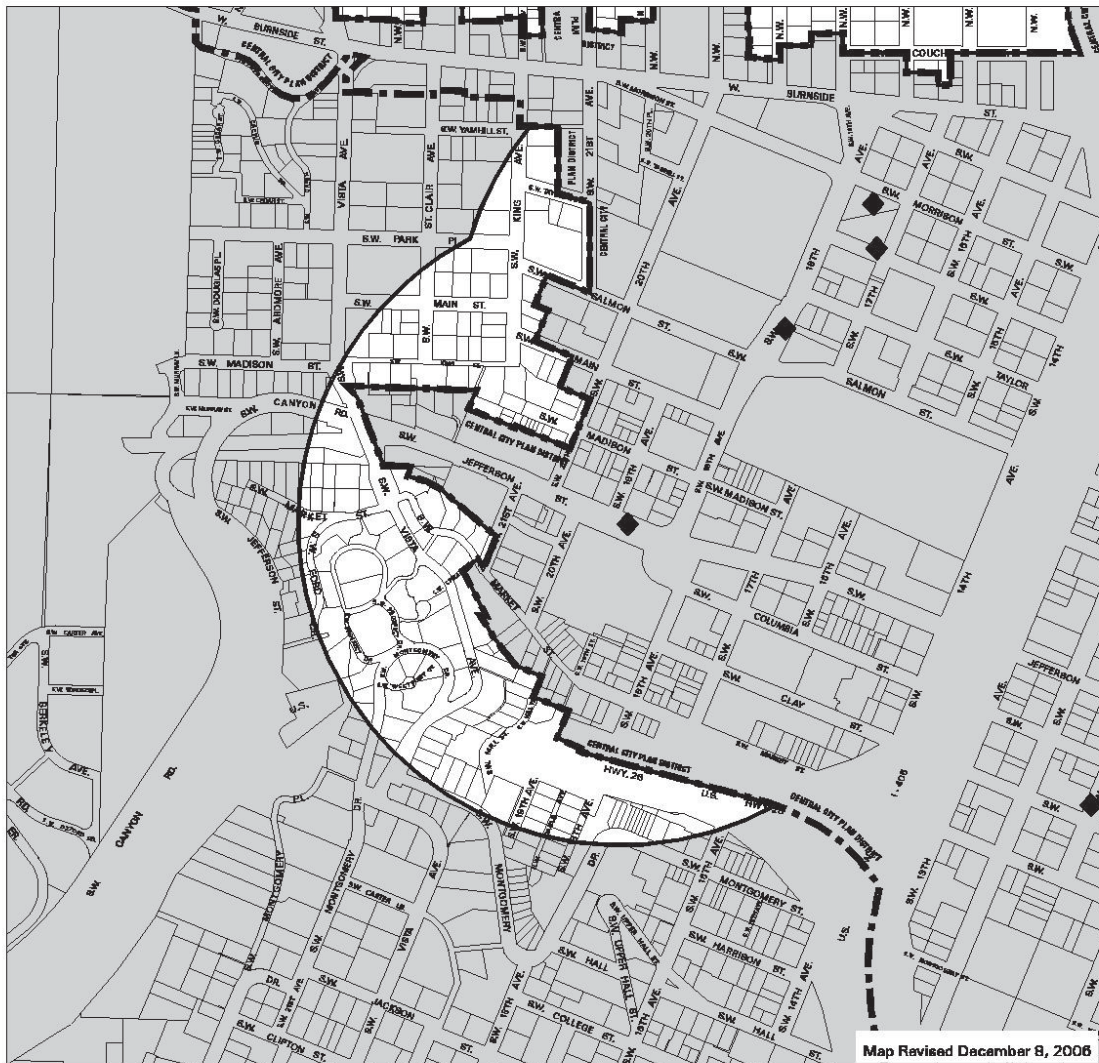


Map 3.103-1 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Index Map

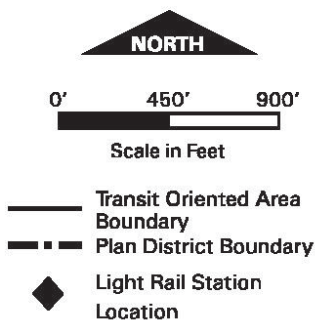
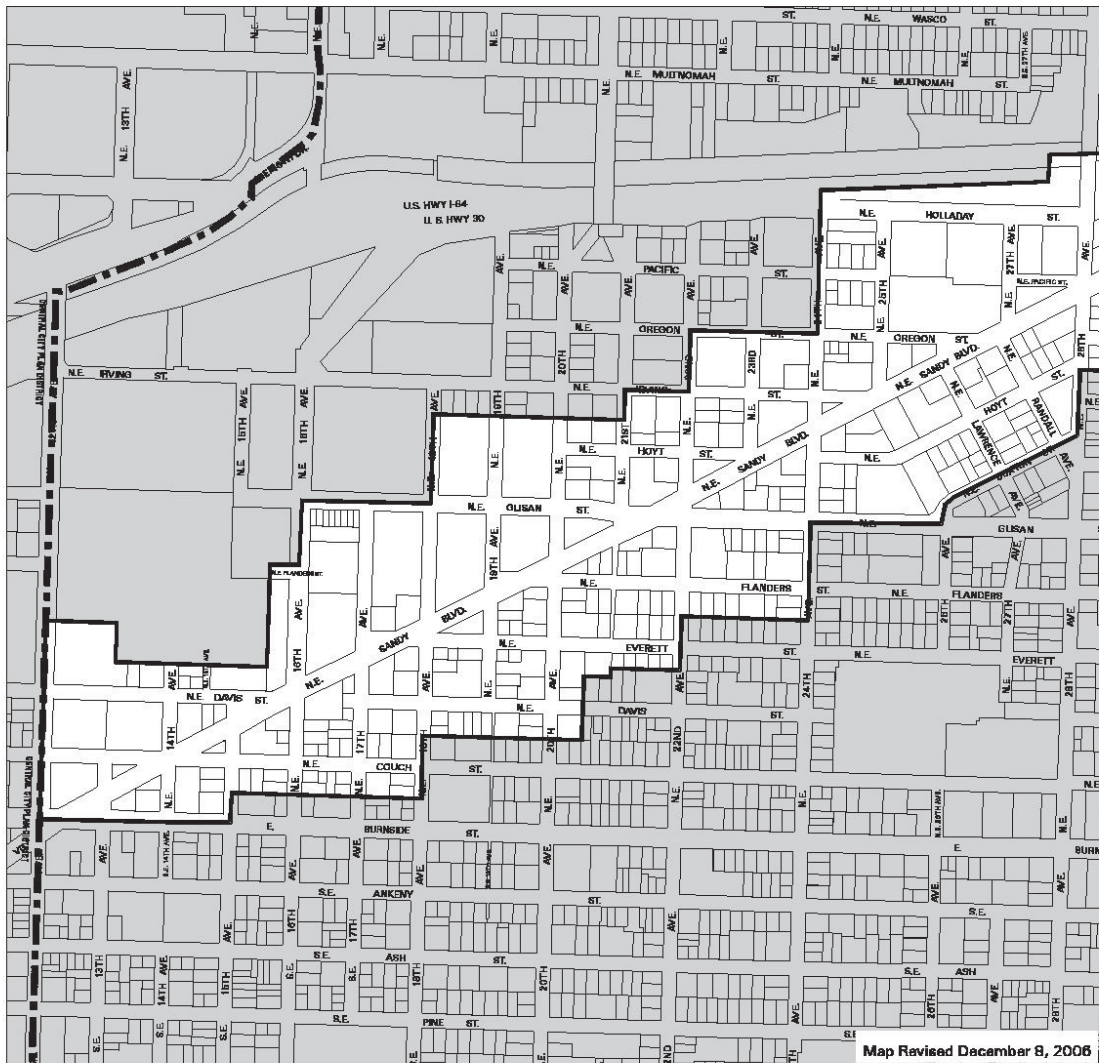
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ADMINISTRATION**



**Map 3.103-2
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development
Goose Hollow Light Rail Station Areas**

Bureau of Planning • City of Portland, Oregon



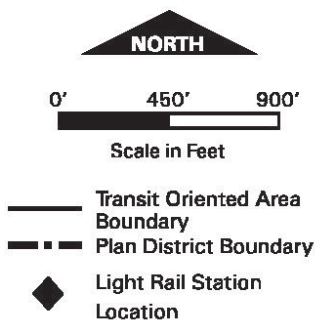
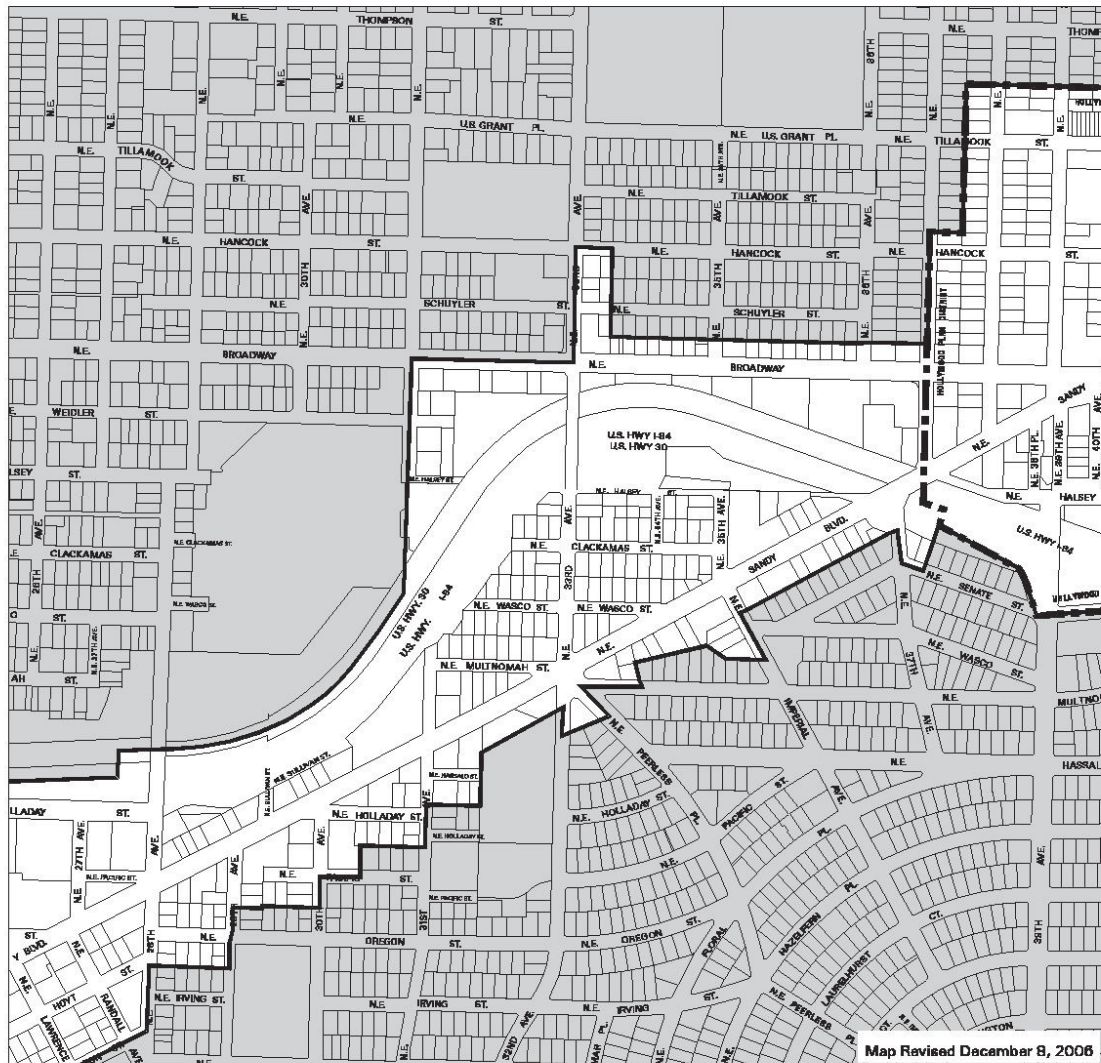
Map 3.103-3 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

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

Map 1 of 3

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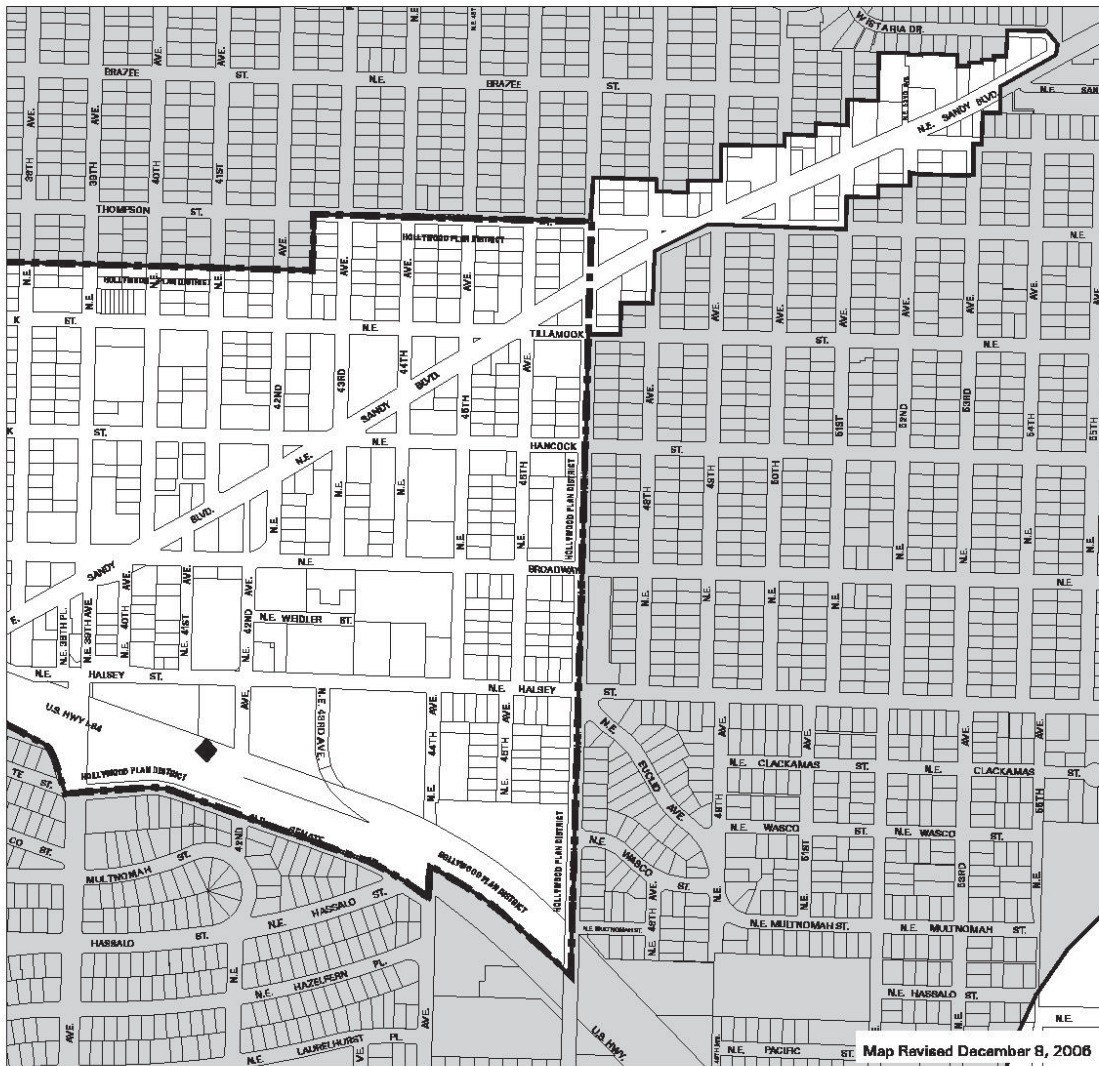


Map 3.103-3 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

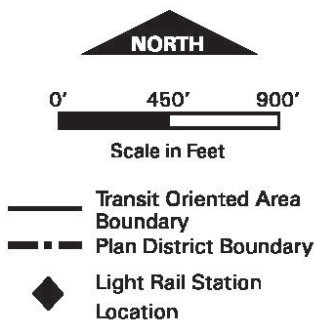
Hollywood Light Rail Station Area & Transit Oriented
Areas along Sandy Boulevard & Broadway Main Street

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Map Revised December 8, 2006



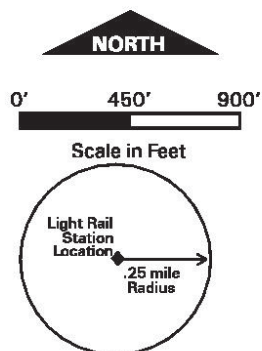
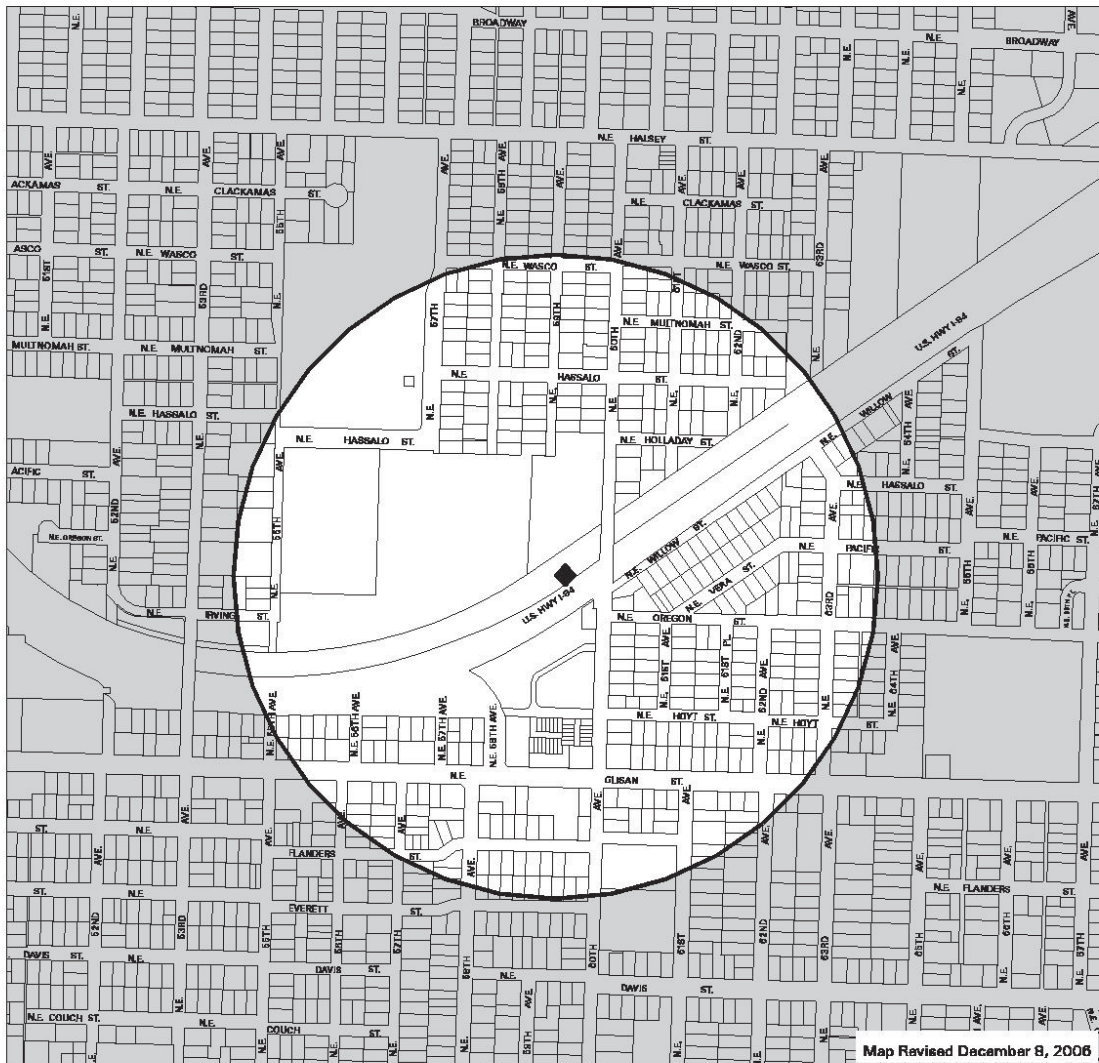
Map 3.103-3 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

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

Map 3 of 3

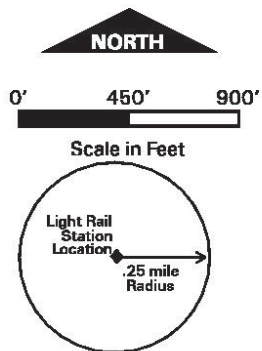
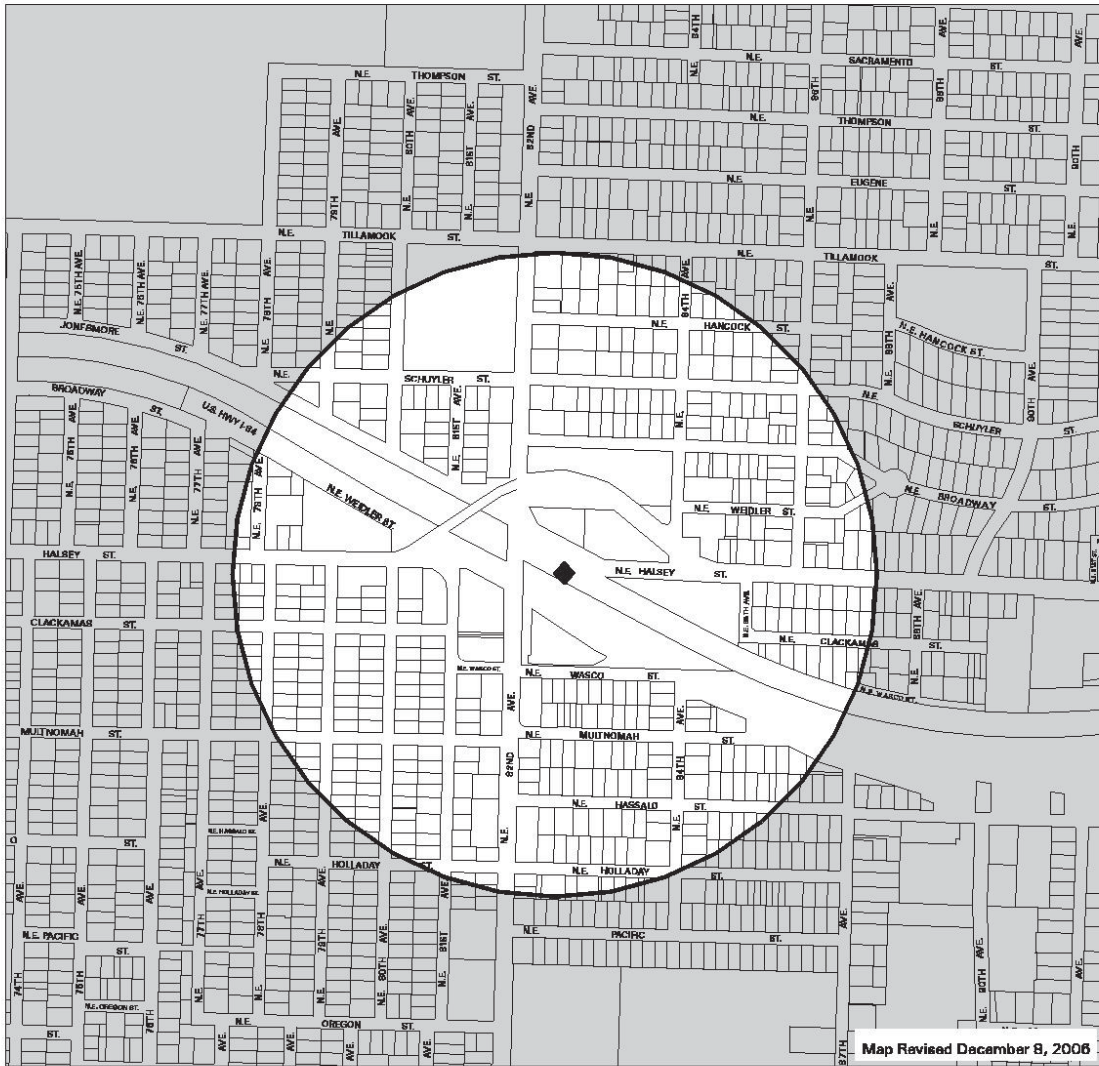
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**Map 3.103-4
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development
60th Avenue Light Rail Station Area**

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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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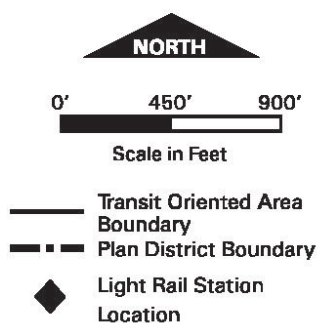
**Map 3.103-6**

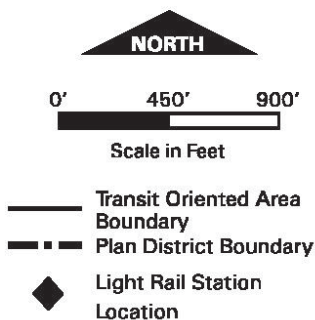
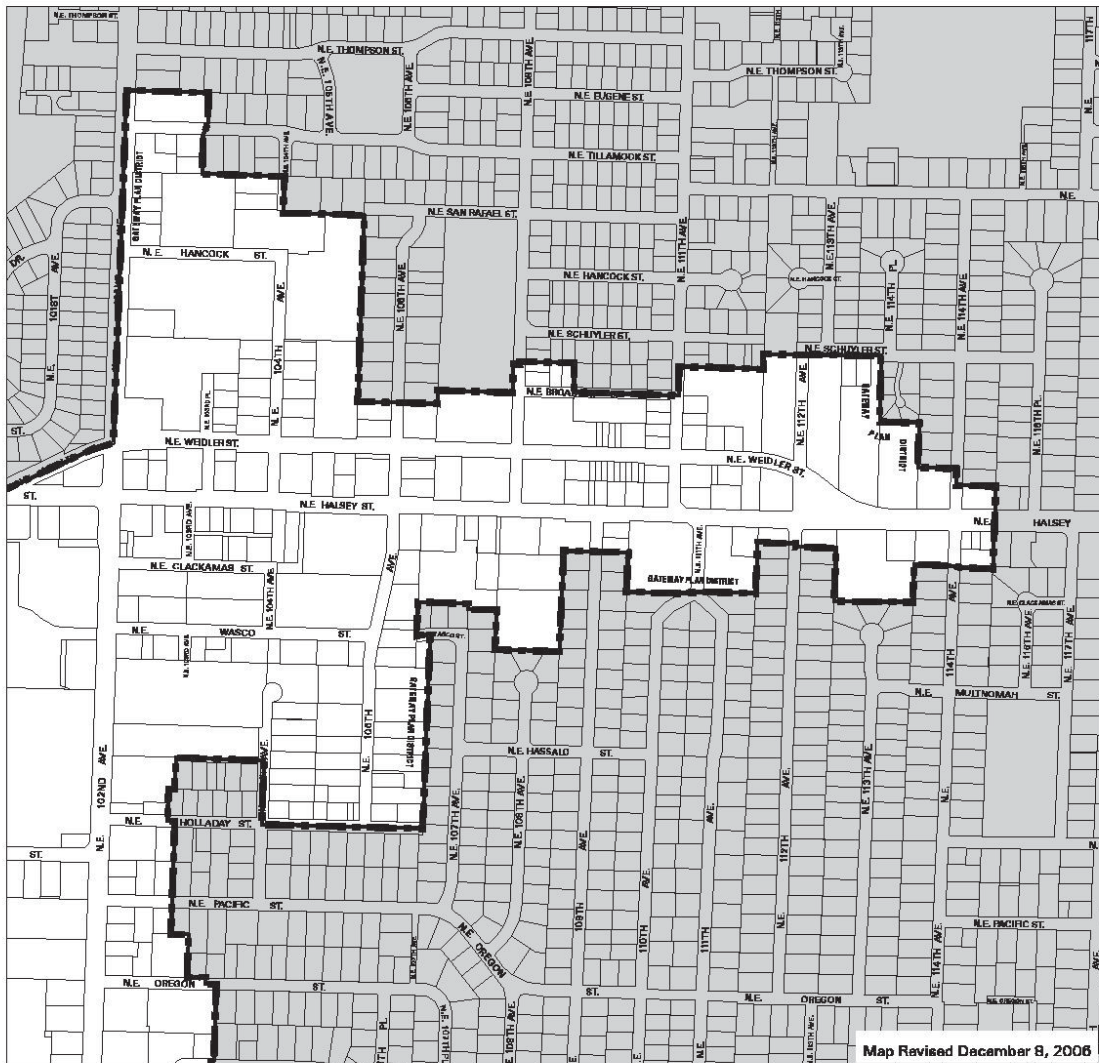
Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Gateway Plan District and Light Rail Station Areas

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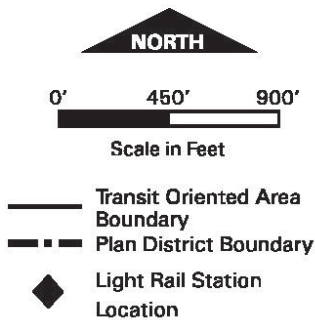
Map 3.103-6 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Gateway Plan District and Light Rail Station Areas

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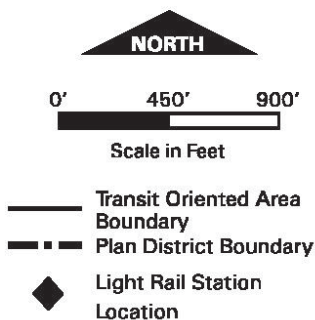


Map 3.103-6
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development

Gateway Plan District and
Light Rail Station Areas

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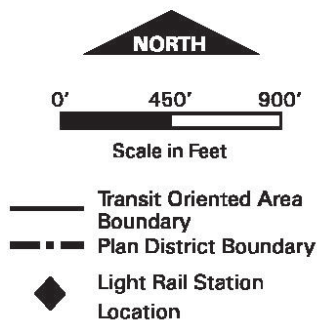
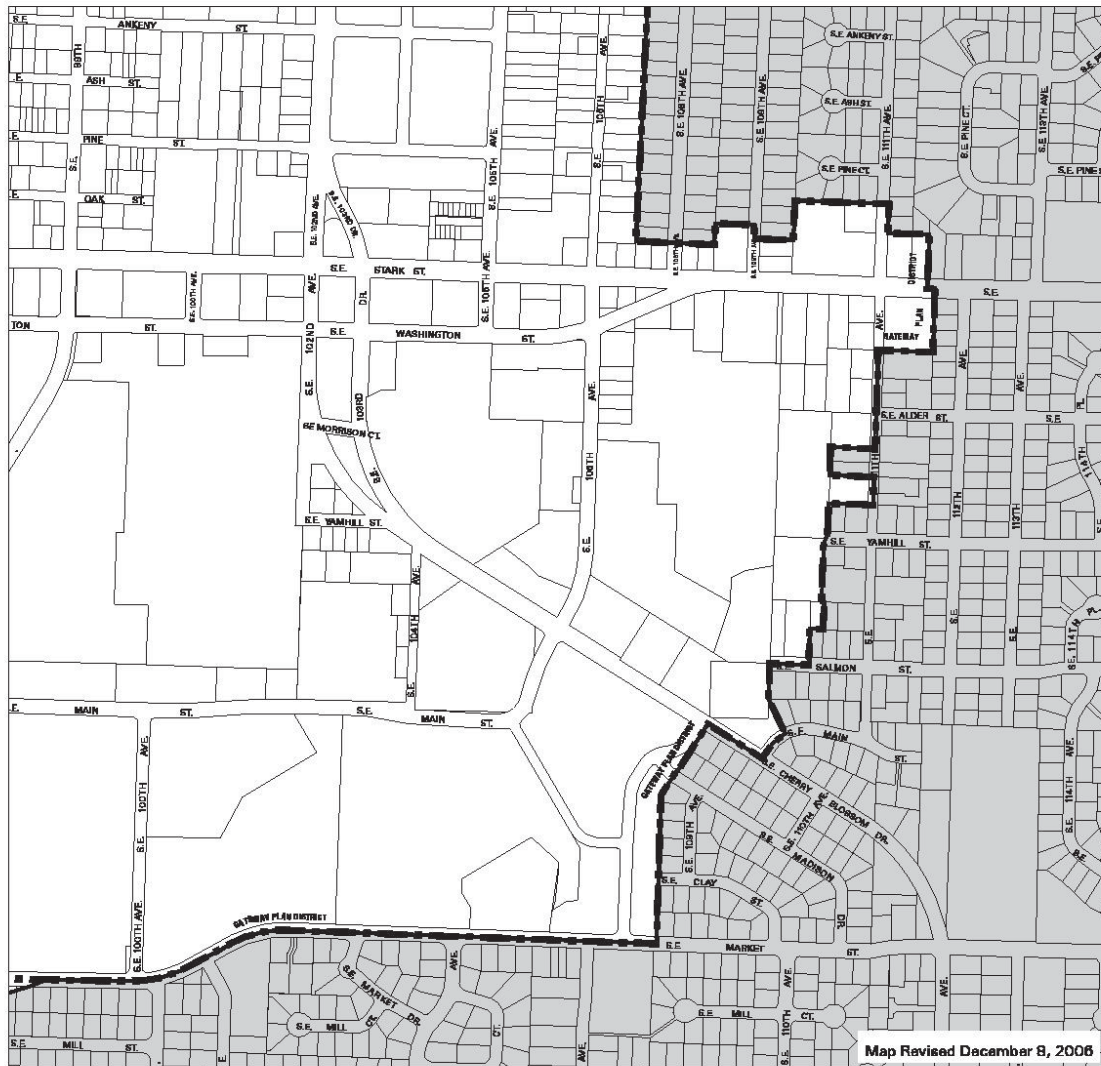
Map 3.103-6 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

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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**.25 mile
Radius**

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

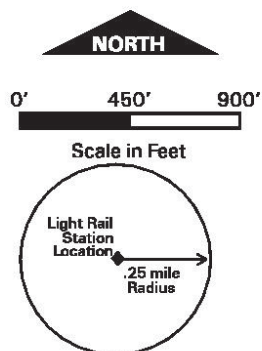
Light Rail Station Areas East of Gateway Plan District

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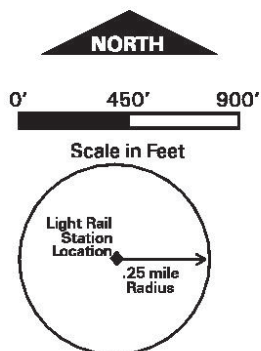
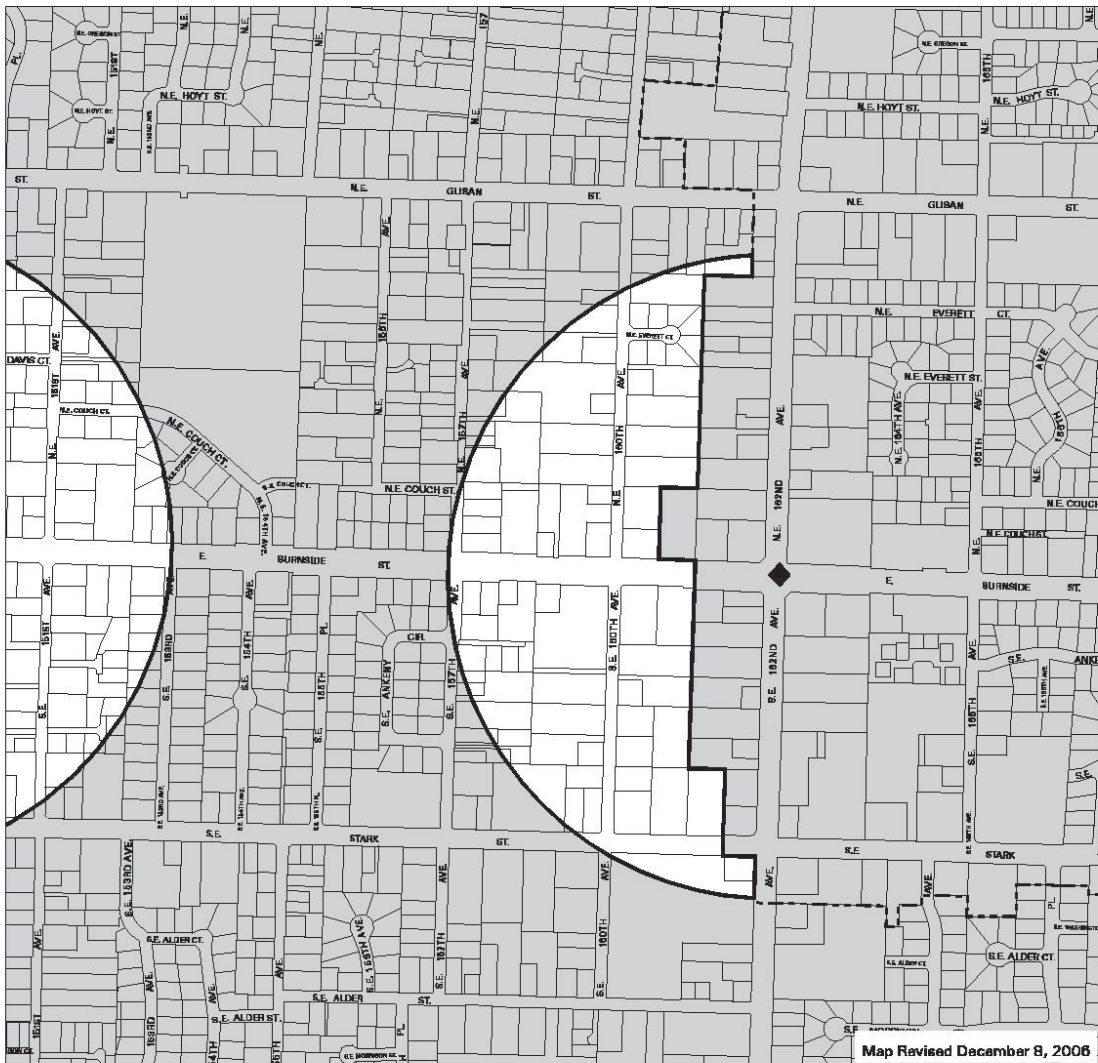


Map 3.103-7
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development

Light Rail Station Areas East of Gateway Plan District

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

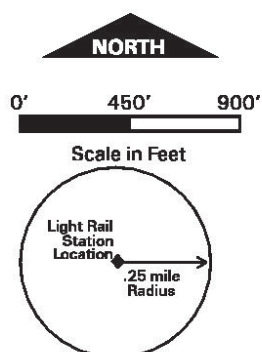
Light Rail Station Areas
East of Gateway Plan District

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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

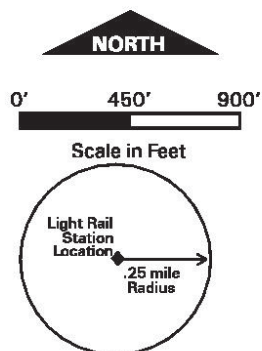
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**Map 3.103-8
Property Tax Exemption for
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or Mixed Use Development**

I-205 Light Rail Stations Areas

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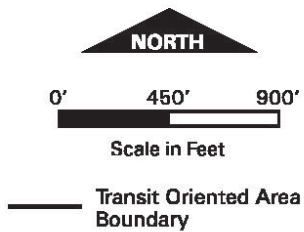
Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

I-205 Light Rail Stations Areas

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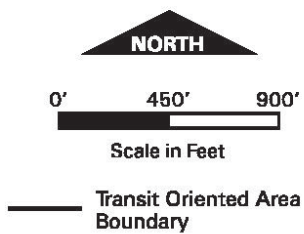
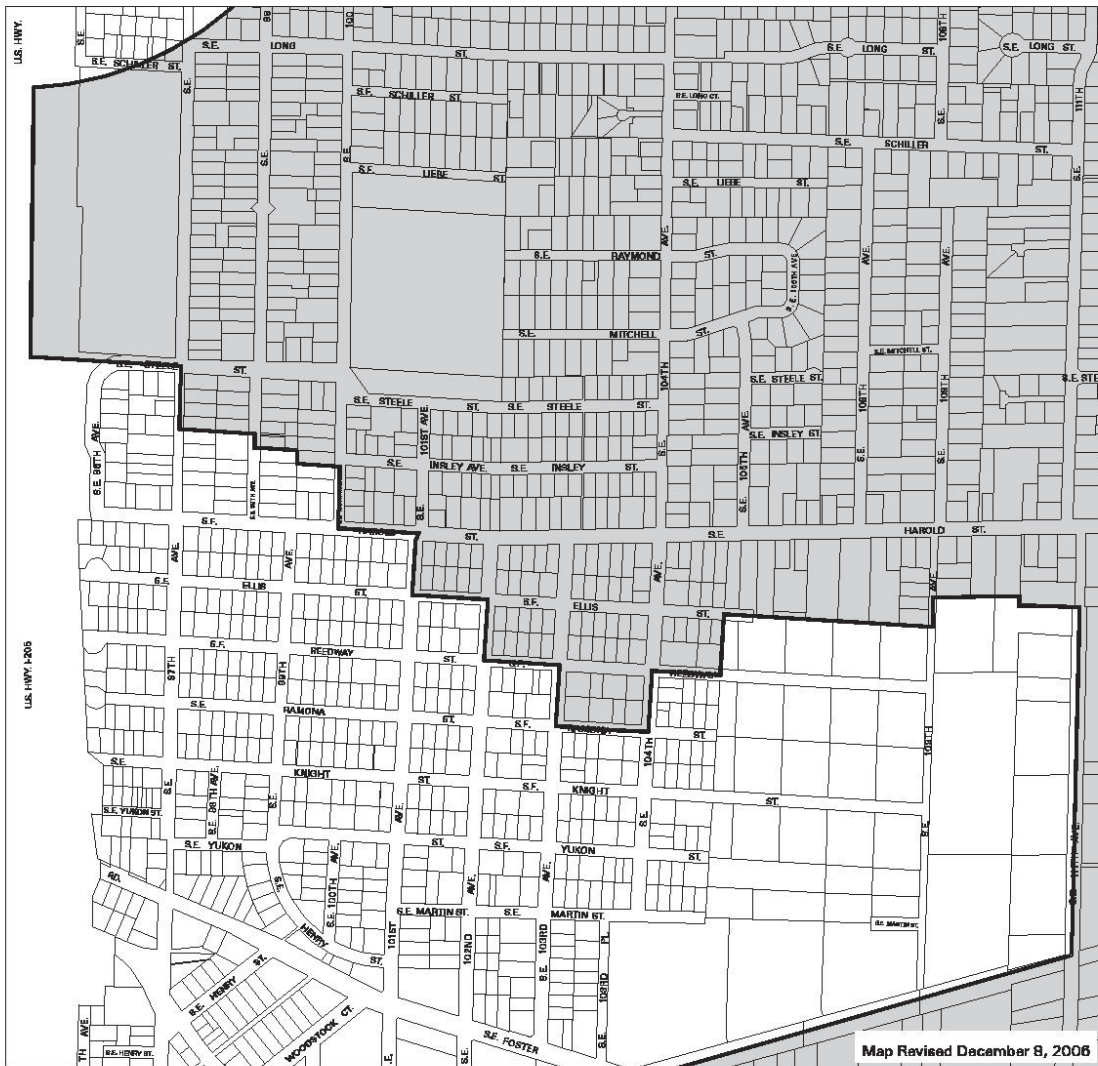
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**Map 3.103-9
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development**

Lents Town Center

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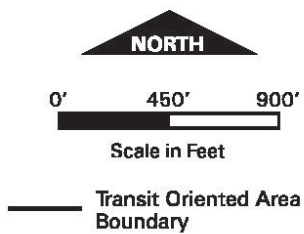


Map 3.103-9 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Lents Town Center

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

Lents Town Center

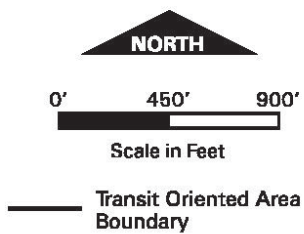
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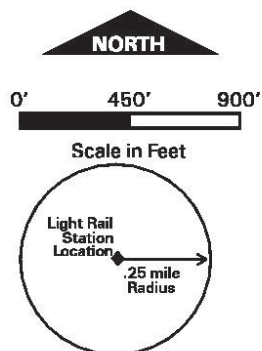
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Map 3.103-10 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Transit Oriented Areas along
Foster Road Main Street

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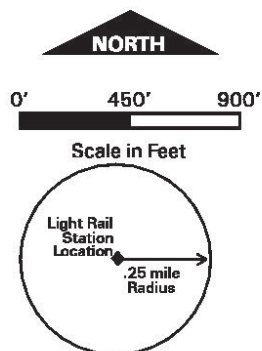
Map 3.103-11
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development
Interstate Corridor Light Rail Station Areas

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Map Revised December 8, 2006



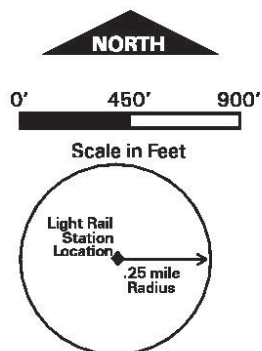
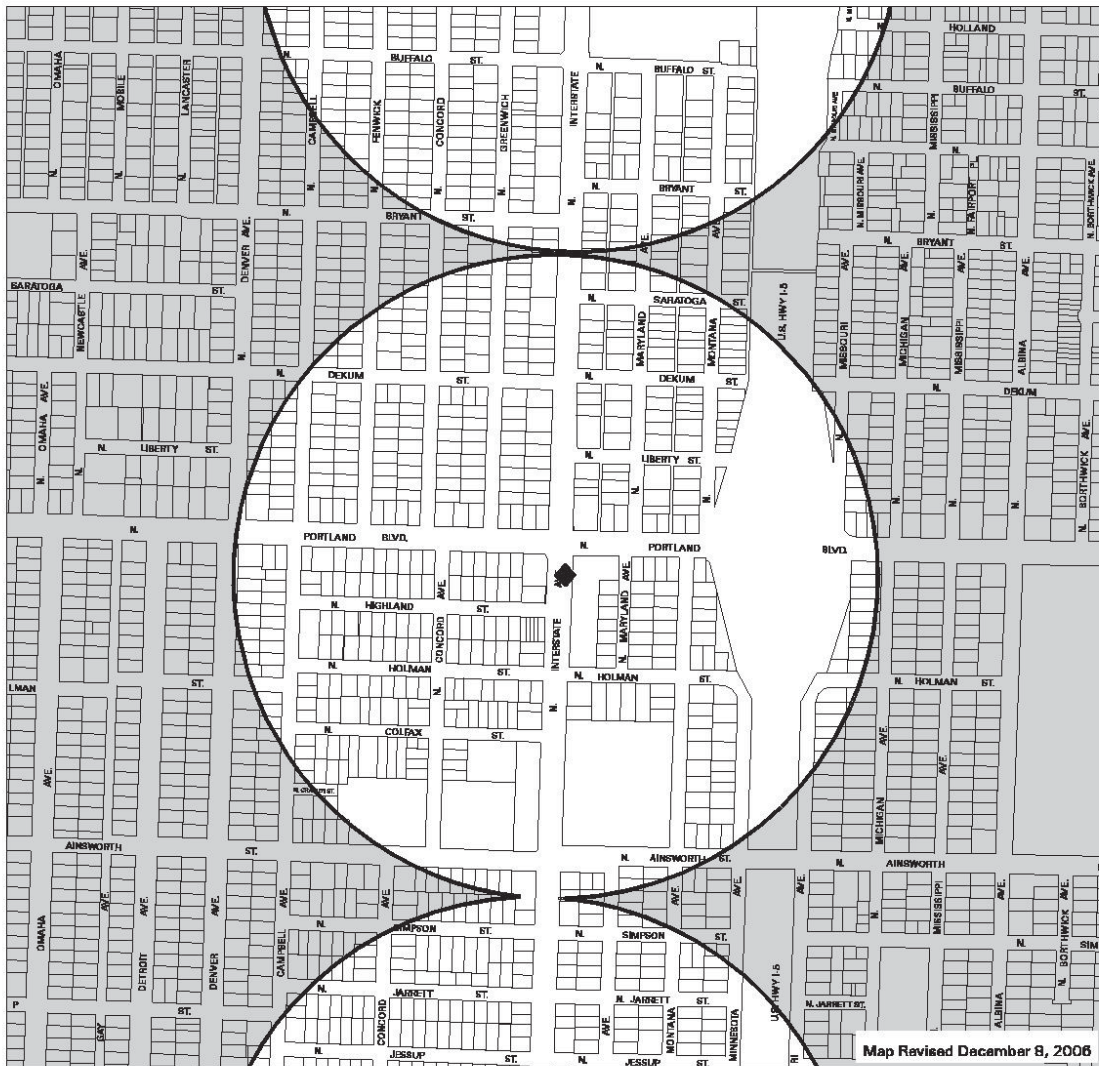
Map 3.103-11

**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

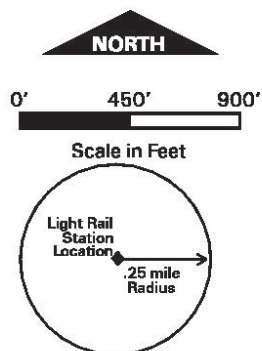
Interstate Corridor Light Rail Station Areas

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Map Revised December 8, 2006



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

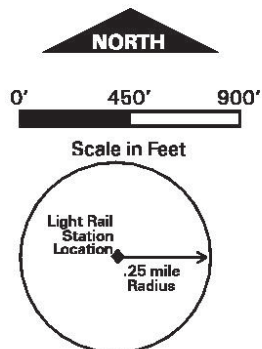
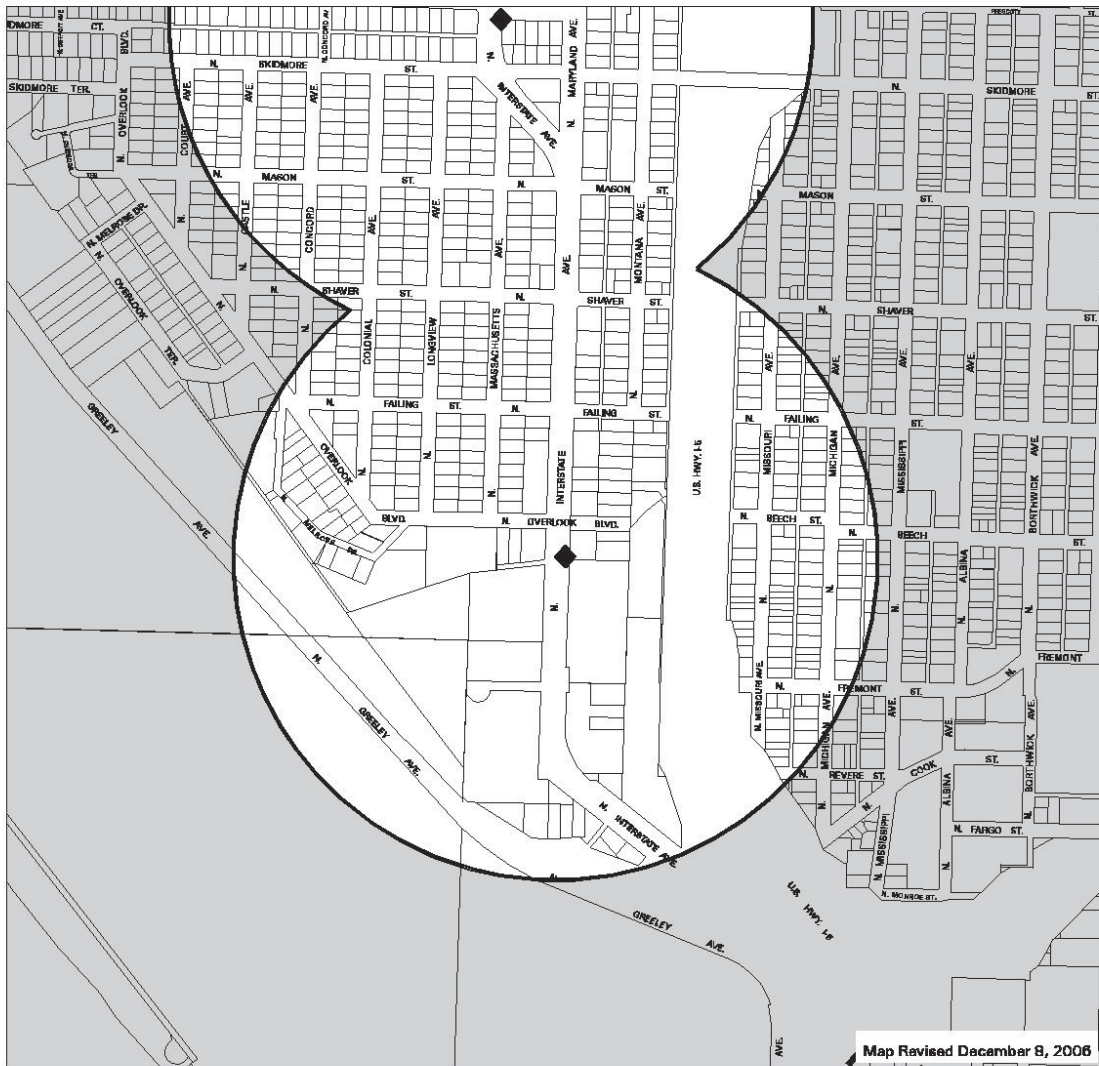
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Interstate Corridor Light Rail Station Areas

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**Map 3.103-11
Property Tax Exemption for
New Transit Supportive Residential
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Interstate Corridor Light Rail Station Areas**

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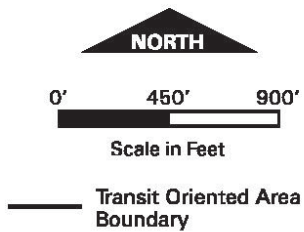
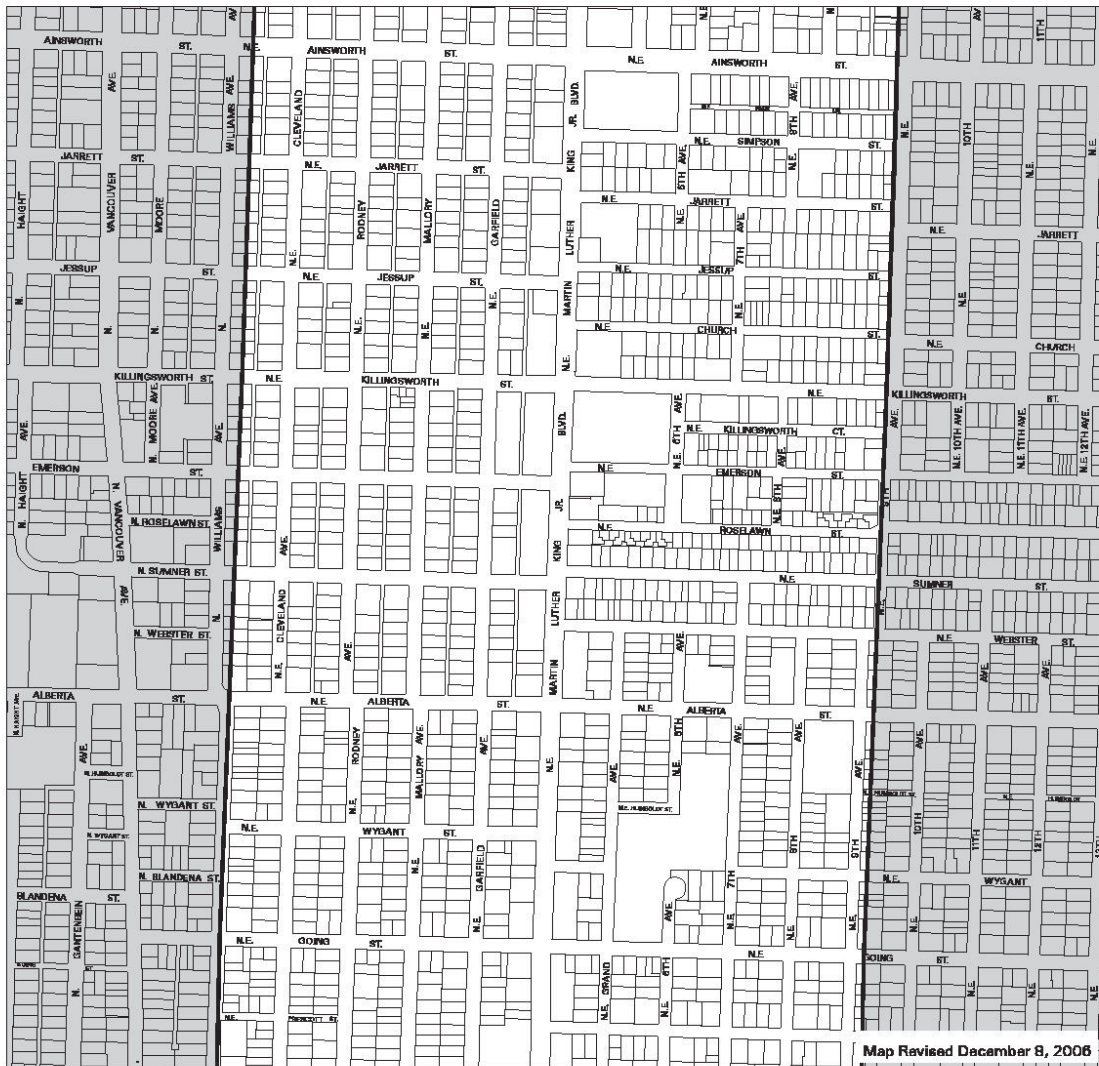
Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Transit Oriented Areas along her King Jr. Blvd. Main Street

Map 1 of 4

Bureau of Planning • City of Portland, Oregon

**TITLE 3
ADMINISTRATION**

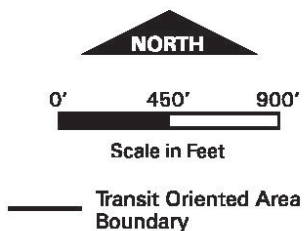


**Map 3.103-12
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development**

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

Map 2 of 4

Bureau of Planning • City of Portland, Oregon



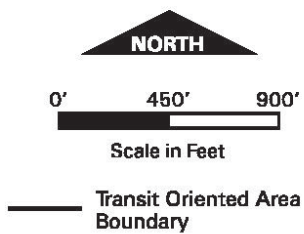
Map 3.103-12 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

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

Map 3 of 4

Bureau of Planning • City of Portland, Oregon

**TITLE 3
ADMINISTRATION**



**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

Bureau of Planning • City of Portland, Oregon



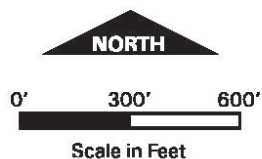
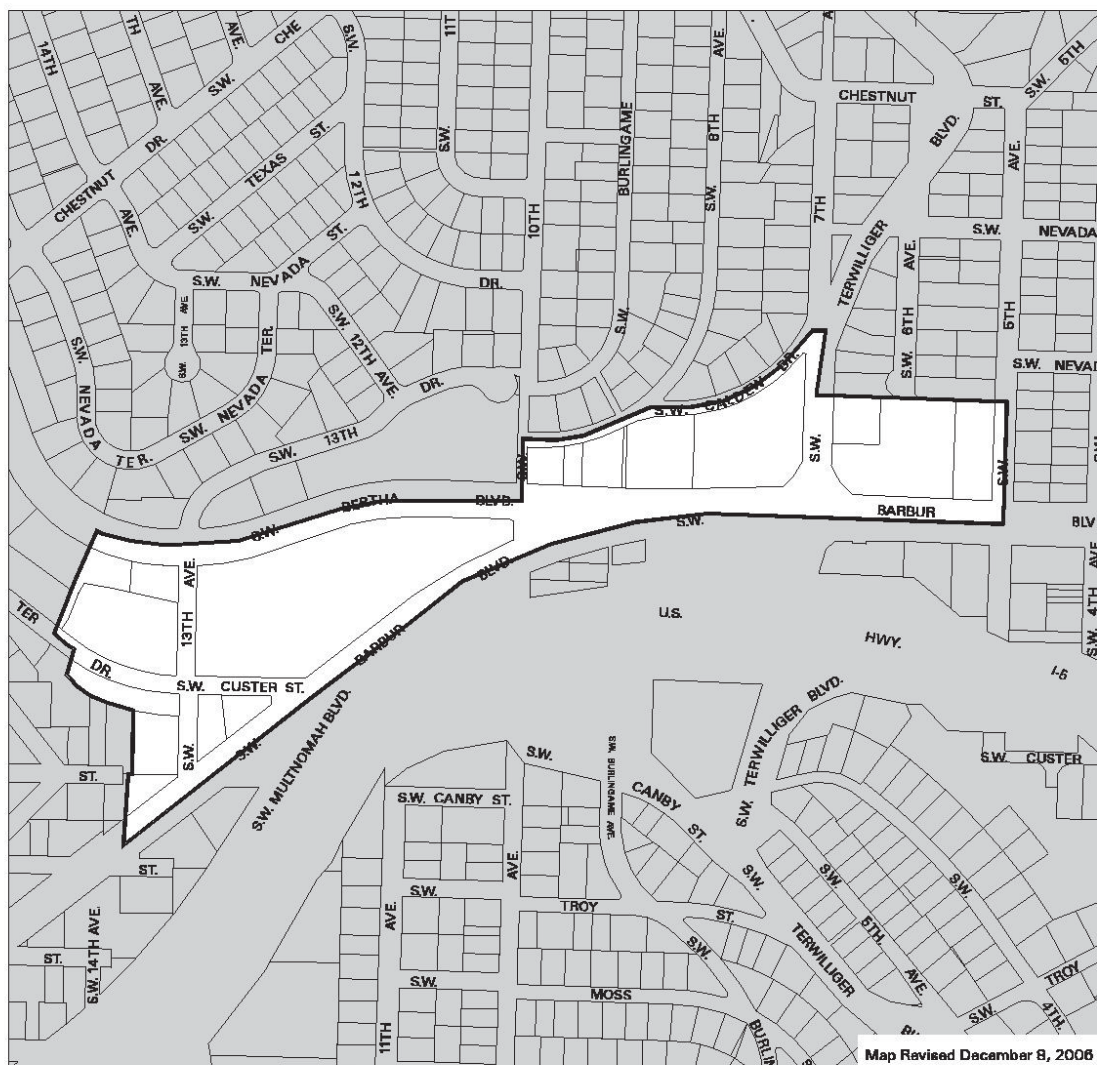
Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Northwest Plan District

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TITLE 3

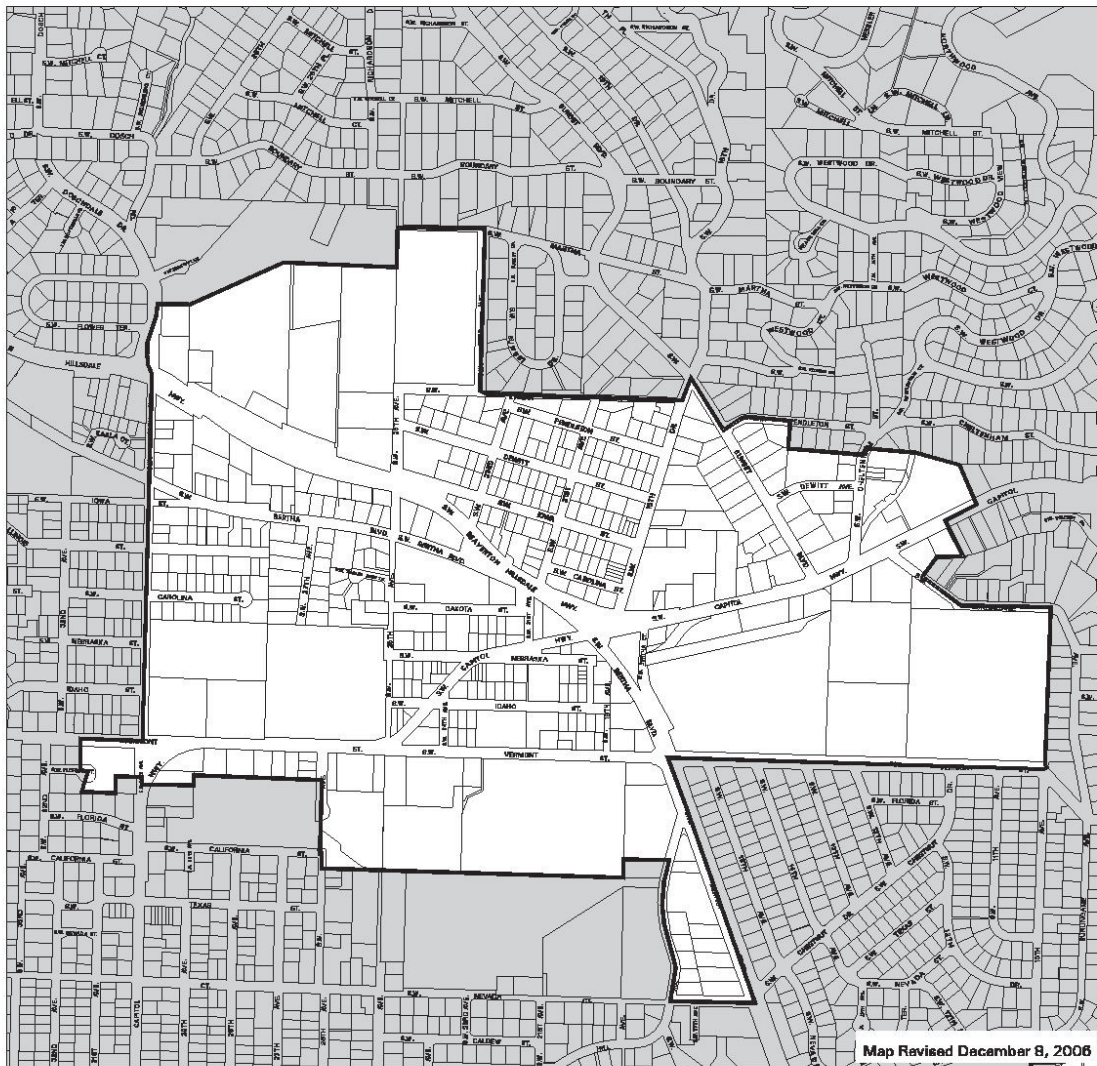
ADMINISTRATION



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

Bureau of Planning • City of Portland, Oregon



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

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- 5.33.215 Negotiations, Discussions within the Competitive Range for RFPs.
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- 5.33.310 Specifications and Brand Names.
- 5.33.320 Bids or Proposals are Offers.
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- 5.34.110 Emergency Contracts; Bidding and Binding Exemptions.
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- 5.33.340 Electronic Procurement.
- 5.34.410 Bid or Proposal Security.
- 5.34.420 Pre-Offer Conferences.
- 5.34.430 Addenda to Solicitation Documents.
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- C. A refund shall be charged against appropriations if the amount to be refunded was previously credited to a budgetary fund. It shall be charged to the fund receipts previously credited if the amount to be refunded was credited to a nonbudgetary account.

5.64.090 Investment of Available Funds.

The City Treasurer hereby is authorized to invest any uninvested surplus balance to the credit of the General Fund or any sinking fund or special fund in interest bearing securities such as may be lawfully held by the City under Section 7-105 of the City Charter. The Treasurer may purchase such securities on the open market and may bid on new issues of such securities. The Treasurer may sell such securities on the open market, if there is an established market therefor, as necessary to meet the cash needs of the various funds.

The authority herein granted to the Treasurer may only be exercised with the approval of the Commissioner of Finance and Administration and, in the case of the investment of sums held in special funds or sinking funds, with the approval of Commissioner In Charge of the budget of such sinking fund or special fund.

5.64.100 Determination of City's Subrogation for Time Loss Payments.

The City Attorney shall determine the amount of any City claim under Charter Section 2-608 for time loss payments made to any officer or employee of the City. In making such determination the City Attorney shall consider the amount of time loss paid by the City, the amount of recovery, the nature and degree of the injury, the costs and expenses incident to the injury or to the recovery of damages, the testimony and evidence insofar as the same is conveniently available, the legal factors involved and all other facts and circumstances which he finds relevant to the particular situation. A tentative determination of the City claim may be made prior to recovery if the City Attorney finds it to be appropriate to assist in settlement of the claim of the officer or employee against another person. Such determination by the City Attorney on the basis of settlement or adjudication of the claim of the officer or employee shall in each case be deemed the amount of the City's claim by subrogation.

5.64.110 Procedure Upon Obtaining Real Property with Outstanding Liens, Assessments or Accumulated Interest.

In all cases where the City acquires a parcel of real property by purchase, gift, trade or otherwise, and the City is obligated to pay an outstanding lien and/or assessment with or without accumulated interest, the officer or Commissioner In Charge of the department or bureau acquiring the real property shall be responsible for the payment of the outstanding lien and/or assessment with accumulated interest, if any, from the appropriate fund at the time of acquisition.

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Chapter 5.68

**PROFESSIONAL, TECHNICAL AND
EXPERT SERVICE CONTRACTS**

(Chapter replaced by Ordinance No.
177244, effective July 1, 2003.)

Sections:

- 5.68.010 Definition.
- 5.68.015 General Requirements – PTE Manual.
- 5.68.020 Application.
- 5.68.030 Public Announcement of Requirements.
- 5.68.035 Authority to Obligate City for Professional, Technical or Expert Services.
- 5.68.050 Review by City Attorney.
- 5.68.060 Outside Legal Services.
- 5.68.070 Procedure for Selection of Bond Counsel.
- 5.68.080 Contractor’s Compliance with Workers’ Compensation Requirements.
- 5.68.090 Selection of Architectural, Engineering and Land Surveying Consultants for PTE Contracts.
- 5.68.100 Direct Contracts with Architects, Engineers and Land Surveyors.
- 5.68.110 Two-Tiered Selection Process.

5.68.010 Definition.

(Amended by Ordinance No. 182213, effective September 24, 2008.) For the purposes of this Chapter, “professional, technical and expert” refers to any individual or group, excluding regular City employees, who, for a fee, provides services or gives professional advice regarding matters in the field of their special knowledge or training. This includes but is not limited to: planners, architects, engineers, lawyers, accountants, doctors, dentists, ministers, and counselors in investments, insurance, advertising, graphics, training, public relations, communications, data processing and management systems. Such contracts may include incidental materials such as written reports, architecture or engineering renderings, and similar supplemental materials. The Purchasing Agent has authority to classify services not specifically addressed in this provision as professional services if those services require professional advice in a field of special knowledge or training similar to those listed above.

5.68.015 General Requirements– PTE Manual.

(Amended by Ordinance No. 182213, effective September 24, 2008.) The Purchasing Agent of the Bureau of Purchases shall create and publish a Professional, Technical and Expert (PTE) Services Manual that shall govern selection and award of PTE contracts. The Purchasing Agent may amend the PTE Manual to ensure that the interests of the

public and PTE contractors are fully served and that the process promotes accountability and competition among all segments of the citizens of Portland. The PTE Manual shall include procedures providing for adequate notice of contract award to potential contractors and shall provide the exclusive means by which selection decisions may be protested before the contract is executed.

5.68.020 Application.

(Amended by Ordinance Nos. 179802 and 182213, effective September 24, 2008.)

- A.** This Chapter applies to City procurement of professional, technical and expert services.
- B.** Procurement of the following services are exempt from the selection process outlined in the City's Professional, Technical and Expert Services Manual and can be made by direct appointment:
 - 1.** Processing of any claim for workers' compensation benefits;
 - 2.** Determining any prospective or current City employee's ability to work or return to work;
 - 3.** Determining any reasonable accommodation that may be made to any job classification in the City; and
 - 4.** The City Attorney's retention of expert witnesses, consultants to assist the City Attorney's Office in providing legal advice to the City, and outside legal counsel.
- C.** If any emergency as defined in the PTE Manual exists the Purchasing Agent may authorize selection of a contractor without following the requirements of this Chapter.
- D.** If the services or expertise required for a project are only available from a "sole source" as defined in the PTE Manual, then the Purchasing Agent may authorize selection of a contractor without following these requirements.
- E.** The Purchasing Agent shall include all emergency and sole source contracts in periodic reports to the City Council.
- F.** If professional, technical or expert services are required in conjunction with the acquisition of goods, services, public improvements, construction services or some combination thereof, the Purchasing Agent may permit the acquisition of such services through the provisions of Chapter 5.33 or 5.34 of this Code instead of this Chapter.

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5.68.030 Public Announcement of Requirements.

(Amended by Ordinance No. 182213, effective September 24, 2008.) The Professional, Technical and Expert Services Manual shall set forth the procedures to be followed by all bureaus in announcing and advertising City PTE solicitations. The procedures in the Manual shall be designed to make information about such solicitations readily available to interested PTE contractors, including state certified minority, women and emerging small business (M/W/ESB) firms. From time to time, the City may adopt programs designed to promote competition, enhance economic opportunity and stimulate hiring among all of Portland's citizens. When such programs are adopted, the Purchasing Agent shall take steps to ensure that PTE contractors wishing to enter into contracts with the City are aware of their requirements.

5.68.035 Authority to Obligate City for Professional, Technical or Expert Services

(Amended by Ordinance No. 182213, effective September 24, 2008.)

- A.** All professional, technical or expert services contracts or purchase orders shall be in writing in a form approved by the City Attorney as provided in Section 5.68.050. The Purchasing Agent, or designee, is authorized to execute contracts for PTE services required by the City in any amount not exceeding \$100,000 without the need for an ordinance specifically authorizing the contract if the contract is included within the current fiscal year budget of the bureau seeking the contract.
- B.** The Purchasing Agent has authority to execute amendments to such contracts, provided the amendments do not, in the aggregate, exceed 25 percent of the original contract amount. Otherwise, the original contract or contract amendment must be approved by the City Council. Except for contracts executed with outside counsel, contracts executed pursuant to Subsection 5.68.020 B.4. may be amended in excess of 25 percent without Council approval provided the City Attorney and the Purchasing Agent both approve the amendment. Periodic reports of such actions shall be provided to City Council by the City Attorney's Office.
- C.** The Purchasing Agent is authorized, but not required, to waive any procedural irregularities in the PTE selection process provided the irregularities had no material affect on the selection of the proposed contractor.
- D.** The provisions of Section 5.68.035 also apply to the procurement of services and contracts for services referenced in Subsection 5.68.020 B.

5.68.040 Process for Services Costing Under and Over The Formal Bid Threshold

(Repealed by Ordinance No. 182213, effective September 24, 2008.)

5.68.050 Review by City Attorney and Purchasing Agent.

(Amended by Ordinance No. 182213, effective September 24, 2008.)

- A.** The City Attorney and the Purchasing Agent shall review and approve the form of all Requests for Proposals, Requests for Qualifications and other similar solicitation documents for all PTE contracts estimated to exceed \$100,000, prior to issuance.
- B.** The City Attorney or designee shall approve the form of all PTE contracts and shall ensure that all required documentation, including, but not limited to insurance, is present before the contract is executed. Such approval shall occur before work begins.

5.68.060 Outside Legal Services.

(Amended by Ordinance Nos. 179802, 180659 and 182213, effective September 24, 2008.)

- A.** Except as specifically exempted by this Section, and in addition to the other requirements of this Chapter for professional, technical and expert service contracts, the following procedures and requirements shall apply to any contracts for legal services to be provided by attorneys outside of the Office of the City Attorney.
 - 1.** All City bureaus and agencies shall submit in writing to the City Attorney all requests for legal services from outside the City Attorney's Office before any agreement is made to obtain any such outside legal services.
 - 2.** The Purchasing Agent has the authority to sign and approve contracts and contract amendments for outside counsel to the same extent as other contracts for professional, technical and expert services. However, all billings and invoices for outside legal counsel's services shall be directed to the City Attorney for review and approval prior to payment.
 - 3.** The Purchasing Agent shall not process any purchase requisition for outside legal services without the written approval of the City Attorney or designee.
 - 4.** The Accounts Payable Division shall not process for payment any billing or invoice for outside legal services without the written approval of the City Attorney or designee.
 - 5.** This Section does not apply to selection of bond counsel, who are selected in accordance with Section 5.68.070 of this Code. However, all billings

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and invoices of bond counsel shall be directed to the City Attorney for review and approval prior to payment.

5.68.070 Procedure for Selection of Bond Counsel.

(Amended by Ordinance No. 182213, effective September 24, 2008.)

- A.** At the time a bureau determines it will need bond counsel for a project or series of projects, the bureau will notify the City Attorney. The City Attorney or designee shall notify each counsel listed in the Oregon Section of the Bond Buyer's Directory of Municipal Bond Dealers (Red Book), requesting that those interested in serving as bond counsel for the project or series of projects submit proposals. The notice shall indicate the nature of the project or series of projects, the type and approximate amount of bonds, the approximate date for the sale or sales of bonds, the bond counsel services required, and the date proposals are due.
- B.** Those counsel interested shall provide the following information to the City Attorney:

 - 1.** A statement of the fee arrangement proposed by the firm.
 - 2.** Such other information as the City Attorney deems appropriate.
- C.** On receipt of the proposals the City Attorney shall refer them to a consultant selection committee consisting of the City Attorney or designee; the Chief Administrative Officer or designee; and the Bureau Director or designee. The Committee shall consider only firms that are listed in the Red Book. The Committee may interview any or all firms, including more than once. The Committee may authorize firms to modify their proposals during the interview period.
- D.** The Consultant Selection Committee shall select a law firm to serve as bond counsel for the project or series of projects. The selection shall be based on fee, experience, or such other criteria as the Committee deems appropriate.

5.68.080 Contractor's Compliance with Workers' Compensation Requirements

Prior to the performance of any work under a professional, technical or expert services contract awarded by the City, a contractor shall comply with the Workers' Compensation Law, ORS Chapter 656, as it may be amended, and if Workers' Compensation Insurance is required by ORS Chapter 656, shall maintain coverage for all subject workers as defined by ORS Chapter 656, and shall maintain a current, valid certificate of Workers' Compensation Insurance on file with the City Auditor for the entire period during which work is performed under the contract.

5.68.090 Selection of Architectural, Engineering and Land Surveying Consultants for PTE Contracts

(Amended by Ordinance Nos. 180659 and 182213, effective September 24, 2008.)

- A.** The City shall use a qualifications based selection process for the selection of architects, engineers and land surveyors (hereinafter collectively called “consultants”) if the requirements of ORS 279C.110 are met and:
- 1.** That process is required as a condition of receiving federal grant funds; or
 - 2.** The City receives money from the State Highway Fund pursuant to ORS 366.762, 366.800 or a grant or loan from the State of Oregon that will be used to pay for any portion of the design and construction of a public improvement project, provided:
 - a.** The total amount of any grants, loans or moneys from the State Highway Fund and from the State of Oregon for the project exceeds 10 percent of the value of the project; and
 - b.** The value of the project exceeds \$900,000.
- B.** As used in this Section:
- 1.** An “architect” is a person who is qualified, licensed, registered and holds a valid certificate in the practice of architecture in the State of Oregon, as provided in ORS 671.010 to 671.220, and includes without limitation the terms “architect,” “registered architect” and “licensed architect.”
 - 2.** An “engineer” is a person who is registered, and holds a valid certificate, in the practice of engineering in the State of Oregon, as provided in ORS 672.002 to 672.325, and includes all terms listed in ORS 672.002(2).
 - 3.** A “land surveyor” is a person who is registered, and holds a valid certificate, in the practice of land surveying in the State of Oregon, as provided by ORS 672.002 to 672.325 and includes all terms listed in ORS 672.002(5).
- C.** The City may use a qualifications based selection process in circumstances other than those required by Subsection 5.68.090 A. if the Purchasing Agent determines that such a selection process will best serve the public interest.
- D.** Evaluation and Negotiation: The PTE Manual shall set forth the evaluation and negotiation process to be used when a qualifications based selection process is utilized.

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E. Public Records.

- 1.** If the City solicits a contract for architectural, engineering or land surveying services or related services by a competitive selection process, proposals may be opened so as to avoid disclosure of contents to competing proposers during, when applicable, the process of negotiation.
- 2.** Proposals are not required to be open for public inspection until after the notice of intent to award a contract is issued.
- 3.** The City may withhold from disclosure to the public trade secrets, as defined in ORS 192.501, and information submitted to a public body in confidence, as described in ORS 192.502, that are contained in a proposal.
- 4.** If a request for proposal is canceled after proposals are received, the City may return a proposal to the proposer that made the proposal. If so, the City shall keep a list of returned proposals in the file for the solicitation.

5.68.100 Direct Contracts with Architects, Engineers and Land Surveyors

(Amended by Ordinance No. 182213, effective September 24, 2008.)

- A.** For purposes of this section the terms “architect,” “engineer,” “land surveyor,” and “consultants” shall have the same meaning as found in Section 5.68.090.
- B.** Notwithstanding Section 5.68.090, the City may enter into a personal service contract directly with a consultant if the project described in the professional, technical or expert services contract consists of work that has been substantially described, planned or otherwise previously studied or rendered in earlier contract with the consultant that was awarded pursuant to rules adopted by the City at the time the consultant originally was hired and the new contract is a continuation of that project.
- C.** The Purchasing Agent shall adopt criteria for determining when Subsection 5.68.100 B. is applicable.

5.68.110 Two-Tiered Selection Process

(Amended by Ordinance No. 182213, effective September 24, 2008.)

- A.** For purposes of this section the terms “architect,” “engineer,” “land surveyor,” and “consultants” shall have the same meaning as found in Section 5.68.090.
- B.** When an architect, engineer or land surveyor is needed for a public improvement the City owns and maintains, and a State agency will act as the lead Public

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Contracting Agency, the selection of the consultant shall be from among the three most qualified consultants identified by the State Agency or from an alternative process adopted by the City, consistent with the Request for Proposals, Request for Qualifications or other solicitation document.

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Chapter 5.72

**ECONOMIC DEVELOPMENT
PROJECTS**

(Added by Ordinance No. 145441; amended by
149771, 155942, 157012; and 157226
effective May 13, 1985.)

Sections:

- 5.72.010 Purpose.
- 5.72.020 Definitions.
- 5.72.030 Economic Development - Applications.
- 5.72.040 Economic Development - Initial Review, Standards.
- 5.72.050 Housing - Applications.
- 5.72.060 Housing - Initial Review, Standards.
- 5.72.070 Initial Determination of Eligibility, Final Approval, Appeals.
- 5.72.080 General Conditions; Document Preparation and Review.
- 5.72.090 Application Processing, Financial Considerations.
- 5.72.100 Administrative Fees.
- 5.72.110 Bond Issuance.
- 5.72.120 Reporting Requirements.

5.72.010 Purpose.

The purpose of this Chapter is to provide necessary procedures and standards to carry out the powers granted to the City by Chapter 772, Oregon Laws of 1977 (ORS 280.410 to 280.485) as amended. This Chapter shall be liberally construed in order to carry out this purpose.

5.72.020 Definitions.

(Amended by Ordinance Nos. 166682 and 172567, effective August 12, 1998.) As used in this Chapter unless the context requires otherwise:

- A. “Economic development project”** includes any properties, real or personal, used or useful in connection with a revenue producing enterprise. “Economic development project” shall not include any facility or facilities designed primarily for the operation, transmission, sale, or distribution of electrical energy. “Economic development project” also includes multiple unit residential housing development on land having an assessed valuation of \$8 per square foot or more on September 13, 1975, land within a designated urban renewal or redevelopment area formed pursuant to ORS Chapter 457, land within an area designated as a Housing and Community Development target neighborhood pursuant to the

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Housing and Community Development Act of 1974, or projects which benefit low or moderate income tenants, or address slum and blight as defined by the 1974 Housing and Community Development Act.

- B. “Eligible project”** means an economic development project found by the City to meet standards adopted pursuant to this Chapter. “Eligible project” includes multiple unit residential housing development which increases available housing units through new construction, rehabilitation of nonresidential buildings, or provides for rehabilitation of residential buildings.
- C. “City”** means the City of Portland.
- D. “Costs”** as applied to any project must conform to all applicable Internal Revenue Service regulations and may include:
1. The cost of construction and reconstruction.
 2. The cost of acquisition of property, including rights in land and other property, both real and personal and improved and unimproved and the cost of site improvements.
 3. The cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved or relocated.
 4. The cost of eligible machinery and equipment and related financing charges.
 5. The cost of engineering and architectural surveys, plans and specifications.
 6. The cost of financing charges and interest prior to and during construction, and if deemed advisable by the City for a period not exceeding 1 year after completion of construction.
 7. The cost of consultant and legal services, other expenses necessary or incident to determining the feasibility or practicability of constructing a project, administrative and other expenses necessary to or incident to the construction of the project, including, but not limited to, costs of relocation and moving expenses according to a project plan developed by the City, and the financing of the construction of the project thereof, including reimbursement to any state or other governmental agency or any lessee of such project for the expenditures made with the approval of the

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City that would be costs of the project under this Chapter had they been made directly by the City, and any costs incurred after bond issuance by the City for audits or monitoring.

- E.** “**Qualified historic project**” shall mean a project which includes the restoration or rehabilitation of a structure or structures designated as a City of Portland Historic Landmark. Such rehabilitation or restoration shall require the approval of the City of Portland Landmarks Commission to assure conformance with the Secretary of the Interior’s standards for historic preservation projects.

5.72.030 Economic Development - Applications.

- A.** The Portland Development Commission shall be responsible for receipt of applications and review and processing thereof. Applications shall be in a form established by the Portland Development Commission and shall include, in addition to other information deemed necessary by the Portland Development Commission:
- 1.** Company/applicant information.
 - 2.** Project information.
 - 3.** Description of labor force at existing and proposed locations.
 - 4.** Financial information.
 - 5.** Environmental control information.
 - 6.** Any information required by law or otherwise which is reasonable and necessary to effectuate the purposes of this Chapter.
 - 7.** An agreement to indemnify and hold harmless the Portland Development Commission and the City of Portland, its officers and employees, from any and all liability for loss or damage to the company or any third person or entity arising from or alleged to have arisen from the processing of this application or any error or omission in any official statement or representation related to the contemplated financing.
- B.** The applicant must certify by letter that the issuance of revenue bonds is an inducement to locate, retain, or expand the project in Portland.

- C. The requirements herein shall be considered to be minimums, and the Portland Development Commission and the City reserve the right to add additional requirements on a case-by-case basis. Likewise, the requirements herein stated pertain only to the Commission and the City and are not exclusive. Qualified bond counsel or the original purchaser may make additional requirements.

5.72.040 Economic Development -Initial Review, Standards.

- A. Upon receipt of an application, the Portland Development Commission shall review the application to determine whether the application should be further processed. In reaching such a determination, the Portland Development Commission staff may request additional information from the applicant as well as assemble any and all data deemed relevant to the decision.
- B. The Portland Development Commission shall consider the following:
1. Economic feasibility and general benefits to the City of the proposed project.
 2. Density of use and potential impact in the area affected by the proposed project.
 3. Land use, transit, and transportation facilities in the vicinity of the proposed project.
 4. City's ability to supply or support other needed services resulting from the Economic Development Project.
 5. Effect of proposed project on balanced economic development of the City.
 6. Employment and property tax income from the project.
 7. Employment opportunities. City and Portland Development Commission will use employment agreements when and where appropriate.
 8. Suitability of proposed area in the City for the particular type of proposed development project.
 9. Conformance with Internal Revenue Service regulations and the Oregon Revised Statutes.
- C. No application shall be recommended for City Council approval unless the Portland Development Commission determines that the proposed project does not conflict with adopted City plans and policies, and conforms to the following uses:

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1. Manufacturing or other industrial production.
2. Agricultural development or food processing.
3. Transportation or freight facilities.
4. Warehousing or distribution.
5. A project for the primary purpose of reducing air, water, or solid waste pollution.
6. Other activities that represent new technology or types of economic enterprise that the City determines are needed to diversify the economic base of the community.
7. Parking in close proximity to the Portland Performing Arts Center. Such a parking facility may include space for retail and commercial uses in addition to parking.
8. Commercial uses when a part of a qualified historic project or publicly initiated urban development project.

5.72.050 Housing - Applications.

- A.** The Portland Development Commission shall be responsible for receipt of applications and review and processing thereof, including, but not limited to, advice of bond counsel and legal advice. Applications shall be in a form established by the Portland Development Commission and shall include, in addition to other information deemed necessary by the Portland Development Commission:
1. The applicant's name, address and telephone number.
 2. A brief description of the applicant's company history and past relevant performance.
 3. A legal description of the property upon which the project will be located.
 4. A detailed description of the project including the number, size and type of dwelling units; dimensions of structures; parcel size, proposed lot coverage with buildings, and amount of open space; type of construction; public and private access; parking and circulation plans; water, sewer, and other utility plans; landscaping; expected uses; and economic feasibility studies and market information including rent levels proposed.

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5. A description of the existing use of the property including a proposed relocation plan for any persons who would be displaced from existing housing by the project; and for any businesses which would be displaced.
6. A site plan and supporting maps, which show in detail the development plan of the entire project, showing streets, driveways, sidewalks, pedestrian ways, off-street parking and loading areas; location and dimension of structures; use of the land and structure; major landscaping features; design of structures; and existing and proposed utility systems including sanitary sewers, storm sewers, water, electric, gas and telephone lines.
7. Any other information required by law or otherwise which is reasonable and necessary to effectuate the purposes of this Chapter.
8. The approximate amount of bond proceeds and allocation to eligible costs.
9. An agreement to indemnify and hold harmless the Portland Development Commission and the City of Portland, its officers and employees, from any and all liability for loss or damage to the company or any third person or entity arising from or alleged to have arisen from the processing of this application or any error or omission in any official statement or representation related to the contemplated financing.

5.72.060 Housing - Initial Review, Standards.

(Amended by Ordinance No. 177259, effective February 19, 2003.)

- A. Upon receipt of an application, the Portland Development Commission shall review the application to determine whether the application should be further processed. In reaching such a determination, the Commission may request additional information from the applicant as well as assemble any and all data deemed relevant to the decision.
- B. The Portland Development Commission shall, after review and comment by all relevant City bureaus, recommend approval, approval with conditions, or denial of the application, after consideration of the following:
 1. The economic feasibility of the project, with and without the use of revenue bonds.
 2. The need for housing resulting from the project.
 3. The general benefits to the City of the proposed project.

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4. The City's ability to supply or support other needed services required by the project.
 5. Employment and property tax income from the project.
 6. Suitability of the project as proposed in the specific proposed location.
 7. (Amended by Ordinance No. 157998; Nov. 21, 1985.) Projects applying for permanent financing must be determined to provide housing at rent or price levels 85 percent of which shall be affordable by households with incomes up to 150 percent of the area median income.
 8. Projects in the downtown, particularly the RX Zone, designated urban renewal or redevelopment areas shall receive highest priority.
 9. Conformance with Internal Revenue Service Regulations and the Oregon Revised Statutes.
 10. No application shall be recommended for approval unless the Portland Development Commission, after review and comment by all relevant City bureaus, determines that the project does not conflict with adopted City plans and policies.
 11. Projects applying for construction financing may be at rent or price levels up to 150 percent of median income, but must have available a firm commitment for long-term project financing.
- C. No project may be approved which would result in the conversion of existing occupied residential rental units to condominium or cooperative projects.
- D. The applicant, to be eligible for financing assistance under this program, must agree not to discriminate against any purchaser or tenant who is a parent or legal guardian with whom a child resides or is expected to reside, except in projects designed exclusively for households, the heads of whom are 62 years of age or older; or in projects designed for households, the heads of whom are 55 years of age or older, if the project meets the requirements of the applicable federal law.
- E. Revenue bonds may be issued secured by revenues from mortgage payments from individual owners of condominium and cooperative units within multiple unit housing projects which are newly constructed, rehabilitated from other uses or rehabilitated in abandoned residential buildings. Applications for such projects shall be considered by the Portland Development Commission if:

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1. No individual or company may have more than one loan outstanding at any one time under this program for individual condominium or cooperative units.
 2. No mortgage loan funds under this program may be used for refinancing by existing owners, and no loans may be assumed by persons not eligible for condominium or cooperative units.
- F. The applicant shall submit a relocation plan for any households, individuals, or businesses which may be displaced by the proposed project. The Portland Development Commission will be responsible for analysis of that proposal and recommendation of that plan, that plan with amendments, or an alternative plan. The relocation plan shall assure that such households, individuals, or businesses are relocated to affordable housing of comparable or better quality.

5.72.070 Initial Determination of Eligibility, Final Approval, Appeals.

- A. The Portland Development Commission staff, within 60 days after a complete application is filed with the Commission, shall prepare a written recommendation of approval, approval with conditions or denial of the application.
- B. If Portland Development Commission staff recommends approval or approval with conditions of the application, the Commission shall, within 60 days of receipt of the application and recommendation, recommend by resolution that City Council approve, approve with conditions, or deny the application. This resolution shall include consideration of any required relocation plan. The Council shall, by resolution, approve, approve with conditions, or deny the application. Council approval or conditional approval of an application shall authorize the Portland Development Commission to process the application and to execute a letter of intent with the applicant.
- C. Final approval shall take place after receipt and review by the Portland Development Commission of all requested and required final documents. All documents to be approved by the Portland Development Commission must be received in final form and received by the Commission 14 days prior to a scheduled Commission meeting. If the Commission determines that the documents comply with the rules and policies established within this Chapter, the Commission shall, by resolution, recommend issuance of the bonds in accordance with those final documents and further recommend that City Council adopt an ordinance authorizing issuance of the bonds in accordance with those documents.
- D. If the Portland Development Commission staff recommends denial of the application, they shall notify the applicant in writing. The applicant may appeal by filing written notice thereof with the Portland Development Commission staff

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within 14 days of receipt of the notice of rejection. Upon receipt of the appeal, the Portland Development Commission shall, within 45 days, recommend by resolution, approval, approval with conditions or denial of the appeal.

5.72.080 General Conditions; Document Preparation and Review.

(Amended by Ordinance No. 166682, effective June 30, 1993.)

- A.** The following general conditions prevail in the issuance of all industrial development revenue bonds:
- 1.** City of Portland economic development revenue bonds may be sold at public or private sale, and the bonds may mature at any time or times within the useful life of the project. For public sales, special approval may be required.
 - 2.** Any bond authorized under this Chapter which is to be sold by public sale must be rated by either a nationally recognized rating agency as Investment Grade.
 - 3.** Bonds sold through a private sale do not require a rating. For purposes of this Chapter, “private sale” means a sale of all of the bonds to persons or entities that qualify as “accredited investors” under 15 USC Section 77b (15) (I) or 17 CFR Section 230.215. The purchasers must also certify, in a manner satisfactory to the City, that they have the financial sophistication, knowledge and experience in financial matters to evaluate the investment in the bonds and the appropriateness of that investment for them, and that they have received all the information required to make an informed judgement about the purchase of the bonds. Bonds which are sold through a private sale may be resold or transferred only to persons or entities that qualify as accredited investors and that provide the certification described in the preceding sentence.
 - 4.** The City of Portland does not guarantee the bonds and is not subject to any liability for their repayment.
 - 5.** The terms and conditions of the issuance and purchase of an industrial revenue bond issue are to be agreed upon by the applicant and bond purchaser with the concurrence of the Portland Development Commission (acting on behalf of the City.)
 - 6.** Where residential rental property is assisted under this Chapter, construction of the project must begin within 9 months from the date of bond issuance.

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7. Applicant will be required to keep the Portland Development Commission advised of the schedule for document preparation and approval, and to provide drafts of documents to the Commission upon request of the Commission.

B. The following general conditions prevail regarding the preparation of all bond documents:

1. Bond counsel will be designated by the Portland Development Commission. Procedures for selecting bond counsel established by Section 5.68.080 of this Code shall not apply to projects initiated pursuant to this Chapter. The applicant will submit their recommendation of bond counsel.
2. Bond counsel will advise the Portland Development Commission of all federal and state procedural requirements as they apply to issuance of the bonds.
3. Bond counsel must be an Oregon law firm or other mutually acceptable bond counsel recognized in the Bond Buyers Directory of Municipal Bond Dealers of the United States.
4. The trustee chosen by the applicant, and approved by the Commission, must be a bank or trust company doing business in the State of Oregon with trust powers.
5. All documents to be approved by the Portland Development Commission must be in final form and received by the Portland Development Commission 14 days before the Commission meeting at which it will be acted upon.

5.72.090 Application Processing, Financial Considerations.

A. Upon receipt of a resolution approving the application, the Portland Development Commission shall consider:

1. The bond market for the types of bonds proposed for issuance.
2. The terms and conditions of the proposed issue.
3. Whether the applicant is financially responsible and fully capable and willing to fulfill its obligations under the agreement of lease, or contract, including the obligation to pay rent in the amounts and at the times required, the obligation to operate, repair and maintain at its own expense

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the project leased, or sold, and to serve the purposes of this Chapter and such other responsibilities as may be imposed under the lease or contract. In determining financial responsibility of the applicant consideration shall be given to the lessee's or purchaser's ratio of current assets to current liabilities, net worth, earning trends, coverage of all fixed charges, the nature of the industry or business involved, its inherent stability, any guarantee of the obligations by some other financially responsible corporation, firm or person, and other factors determinative of the capability of the lessee or purchaser, financially and otherwise, to fulfill its obligations consistently with the purposes of this Chapter and Chapter 772, Oregon Laws of 1977 (ORS 280.410 to 280.485.)

4. Such other relevant factors as the Development Commission considers necessary to protect the financial integrity of the City.
If the Development Commission shall determine that a bond issue is financially feasible it shall designate the underwriter, trustee and bond counsel and shall enter into appropriate agreements with each to carry out the provisions of this Chapter and Chapter 772, Oregon Laws of 1977 (ORS 280.410 to 280.485) subject to the approval of the Council pursuant to Section 5.72.110 of this Chapter. In reaching its determination, the Development Commission may appoint a Bond Review Committee to assist it in its deliberations, and may set administrative procedures from time to time as necessary.

5.72.100 Administrative Fees.

(Amended by Ordinance Nos. 160540, 160608; and 166996, effective Sept. 29, 1993.)

- A. The applicant agrees to pay all applicable City and Portland Development fees and expenses associated with the application whether or not the bonds are issued. A minimum application fee of \$500 shall be assessed to all projects at the time of filing the formal application with the Commission. In addition, the Commission shall be reimbursed in full for all direct and indirect costs incurred in the project. The fees shall be paid as follows:
 1. \$500 at the time of filing a formal application with the Portland Development Commission.
 2. The balance at the time of closing of the bond issue. In the event the financing is not completed, costs incurred to date by the Commission shall be subject to immediate reimbursement.
- B. Upon issuance of the bond, the applicant will pay the Portland Development Commission a one-time issuance fee equal to seven dollars per 1,000 dollars of the face amount of the bonds for ongoing administration of the bonds. On bonds

issued prior to March 23, 1988, the annual administration fee will henceforth be seventy-five cents per 1,000 dollars of the outstanding principal, billed yearly in advance. On bonds issued prior to March 23, 1988, the Portland Development Commission and applicants of outstanding issues may enter into an agreement to pay a one-time fee in lieu of the annual administration fee.

1. For refunding bonds issued under ORS Chapter 280 for economic development projects, if the one-time issuance fee has been paid in accordance with subsection (b) for the bonds being refunded, and the Portland Development Commission determines the refunding will not generate additional ongoing administration costs, the fee or an equitable portion thereof may be waived. Nothing in this subsection (1), however, should be construed to eliminate or limit the applicant's responsibility to pay all fees and expenses of the City and the Portland Development Commission described in subsection (a) of this section in connection with issuing the refunding bonds.

5.72.110 Bond Issuance.

Upon receipt of the recommendation of the Portland Development Commission, the Council may by ordinance authorize the issuance of bonds in an amount equal to the costs of the proposed project, pursuant to Chapter 772, Oregon Laws of 1977, if it determines that the proposed issue meets the requirements of said Act and this Chapter.

5.72.120 Reporting Requirements.

- A. Beginning no later than 12 months following the issuance of bonds by the City, and continuing annually for a period as long as the bonds are outstanding, the Portland Development Commission shall require each project owner of the assisted project to submit a written report which describes:
 1. Number of current employees by job category.
 2. Total assessed value and property taxes paid during the most recent period for the assisted facility or facilities.
- B. In addition to the foregoing, owners of multi-family projects assisted under this Chapter are required to report annually the number of residential units occupied by individuals or families who, at the date of reporting, have low or moderate incomes.

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Chapter 5.74

ACQUISITION OF PUBLIC ART

(Replaced by Ordinance No. 161537,
amended by Ordinance Nos. 168591 and 179869, effective February 10, 2006.)

Sections:

- 5.74.010 Purpose.
- 5.74.020 Definitions.
- 5.74.030 Dedication.
- 5.74.040 Public Art Trust Fund.
- 5.74.050 Siting.
- 5.74.060 Guidelines.
- 5.74.070 Ownership.
- 5.74.080 Decisions.
- 5.74.090 Implementation.

5.74.010 Purpose.

It is the purpose of this Chapter and the policy of the City of Portland to dedicate two percent of the total Eligible Costs or two percent of the total Eligible Funds of all Improvement Projects (whichever is less) to the selection, acquisition, fabrication, installation, maintenance, management, deaccessioning, community education, documentation and registration of Public Art.

5.74.020 Definitions.

(Amended by Ordinance No. 178946, effective January 7, 2005.

A. As used in this Chapter:

1. Improvement Project means any project paid for wholly or in part by a Participating Bureau in which the Participating Bureau's contribution of Eligible Funds equals \$50,000 or more for the construction, rehabilitation, remodeling, improvement or purchase for a public use of any building, structure, park, public utility, street, sidewalk or parking facility or any portion thereof within the limits of the City of Portland.
2. Maintenance and repair does not constitute an Improvement Project.
3. Improvement Projects which are developed privately and leased back to the City of Portland are not exempt from the provisions of this Chapter.
4. The purchase of improved or unimproved property by the Portland

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Development Commission solely for resale or redevelopment, in which property is not otherwise to be put to a governmental use, shall not constitute an Improvement Project subject to the provisions of this Chapter.

- B.** Eligible Costs means the Participating Bureau's capitalized costs for completion of an Improvement Project, including costs for capitalized tenant improvements. Eligible Costs do not include costs for: design and engineering, administration, fees and permits, building demolition, relocation of tenants, environmental testing, environmental remediation, non-construction contingency or indirect costs, such as interest during construction, advertising and legal fees. When an improvement project involves the acquisition of real property, costs attributable to land acquisition are not Eligible Costs, while costs attributable to improvements on the real property are Eligible Costs.
- C.** Eligible Funds means a Participating Bureau's monetary contribution to an Improvement Project. The following are not Eligible Funds: private development revenue, federal and state grants that preclude Public Art as an object for expenditure, Local Improvement District revenue, Water Operating Fund revenue, Water Construction Fund revenue, Sewer Systems Operating Fund revenue, Sewer Systems Construction Fund revenue and revenue from any other funding source subject to legal restrictions which preclude Public Art as an object for expenditure.
- D.** Public Art means original artwork which is accessible to the public and/or public employees, and which has been approved as public art by the Regional Arts and Culture Council, acting on behalf of the City of Portland.
- E.** Participating Bureau means a City of Portland Bureau or Commission that funds an Improvement Project within the meaning of this Chapter.
- F.** Selection Panel means a group responsible for reviewing proposed Public Art and making recommendations to the Regional Arts & Culture Council on the selection of Public Art. Selection Panels shall include a representative of the Participating Bureau, the Improvement Project architect or engineer, artists and citizens.

5.74.030 Dedication.

Any City of Portland official or employee acting on behalf of a Participating Bureau who authorizes or appropriates expenditures for an Improvement Project shall include in the capital improvement program of the City's capital budget, and disburse to the Regional Arts & Culture Council, a monetary contribution for Public Art equal to Two percent (2%) of the total Eligible Costs or two percent of the total Eligible Funds of the Improvement Project, whichever is less. The Office of Management and Finance and the Portland Development Commission shall each adopt administrative rules to implement

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this section, which to the greatest extent practicable shall set forth the same procedures to be followed by all Participating Bureaus, including the Portland Development Commission.

5.74.040 Public Art Trust Fund.

The Regional Arts & Culture Council shall maintain a special fund called the Public Art Trust Fund into which funds dedicated to Public Art pursuant to section 5.74.030 shall be deposited.

- A.** Such funds shall be deposited into the Public Art Trust Fund, and shall be allocated as follows:
 - 1.** 63 percent shall be used by the Regional Arts & Culture Council for costs associated with Public Art including, but not limited to the acquisition, fabrication, and installation of Public Art.
 - 2.** 27 percent shall be used by the Regional Arts & Culture Council for costs associated with Public Art, including, but not limited to costs of selection, project management, community education and registration of Public Art.
 - 3.** 10 percent shall be used by the Regional Arts & Culture Council for the maintenance, conservation and deaccessioning of Public Art.
- B.** Such funds shall be deposited in separate accounts within the Public Art Trust Fund if separate accounting is requested by the Participating Bureau or required by law.
- C.** Disbursements from the Public Art Trust Fund shall be made by the Regional Arts & Culture Council.
 - 1.** Disbursements shall be made according to the terms of this Chapter and any guidelines adopted hereunder by the Regional Arts & Culture Council.
 - 2.** If an Improvement Project is funded by revenue sources whose expenditure is restricted by the City Charter or other law, the Regional Arts & Culture Council, prior to making a disbursement for Public Art from such a restricted account in the Public Art Trust Fund, shall adopt written findings demonstrating that the proposed disbursement complies with all applicable restrictions.
 - 3.** The Regional Arts & Culture Council will report annually to Participating Bureaus on the disbursement of funds from the Public Art Trust Fund.

5.74.050 Siting.

Public Art selected pursuant to this Chapter may be sited in, on or about any Improvement Project or other property owned, leased, or rented by, donated to, or otherwise made available to the City of Portland in accordance with any restrictions placed on siting by the Participating Bureau.

5.74.060 Guidelines.

The Regional Arts & Culture Council shall, after consultation with Participating Bureaus, adopt guidelines to:

- A. Provide for annual reporting to Participating Bureaus;
- B. Develop an annual plan for Public Art that takes into account the views of the Participating Bureau;
- C. Provide a method for the appointment of representatives to Selection Panels;
- D. Determine a method or methods of selecting and contracting with artists for the design, execution and siting of Public Art;
- E. Determine the dedication and disbursement process for the Public Art Trust Fund;
- F. Determine a process for the ongoing care, maintenance and conservation of Public Art;
- G. Determine a process to deaccession art;
- H. Set forth any other matter appropriate to the administration of this Chapter.

5.74.070 Ownership.

All Public Art acquired pursuant to this Chapter shall be acquired in the name of the City of Portland, and title shall vest in the City of Portland.

5.74.080 Decisions.

Except as limited by other sections of this Chapter, the Regional Arts & Culture Council's decisions as to the acquisition, fabrication, installation, deaccessioning, management, community education and registration of Public Art, and disbursement of the Public Art Trust Fund, shall be final.

5.74.090 Implementation.

The Regional Arts & Culture Council, or its designee, shall implement the provisions of this Chapter, in cooperation with the Office of Management and Finance and all Participating Bureaus.

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CHAPTER 5.75

**CLAIMS UNDER
ORS CHAPTERS 195 and 197**

(Replaced by Ordinance No. 181640,
effective February 28, 2008.)

Sections:

- 5.75.010 Purpose.
- 5.75.020 Definitions.
- 5.75.030 Filing an Amended Claim.
- 5.75.040 Review of Amended Claim by Program Manager.
- 5.75.050 Hearing on Amended Claim by City Council.
- 5.75.060 Filing a New Claim.
- 5.75.070 Review of New Claim by Program Manager.
- 5.75.080 Hearing on New Claim by City Council.
- 5.75.090 Claim Processing Fee.
- 5.75.100 Determination of Common Law Vested Right.
- 5.75.110 Hearing on a Common Law Vested Right By City Council.

5.75.010 Purpose.

The purpose of this Chapter is to establish a procedure by which owners of private real property located within the City of Portland may file claims pursuant to Chapters 195 and 197 of the Oregon Revised Statutes as amended by Ballot Measure 49 (November 6, 2007) (referred to in this chapter as "Measure 49") and to provide for consideration of claims by the City Council.

5.75.020 Definitions.

- A. Appraisal.** A written statement prepared by a person certified under ORS chapter 674 or a person registered under ORS chapter 308 that complies with the Uniform Standards of Professional Appraisal Practice, as authorized by the Financial Institution Reform, Recovery and Enforcement Act of 1989.
- B. Approved Measure 37 Claim.** A claim filed under ORS 197.352 and approved by the City Council before December 6, 2007.
- C. Department.** The Oregon Department of Land Conservation and Development.
- D. Exempt Land Use Regulation.** A land use regulation that:

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1. Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;
 2. Restricts or prohibits activities for the protection of public health and safety;
 3. Is required in order to comply with federal law;
 4. Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or
- E. Land Use Regulation.** A provision of the City of Portland comprehensive plan, zoning ordinance or land division ordinance that restricts the residential use of private real property zoned for residential use.
- F. Measure 37.** A ballot measure adopted by the voters of the State of Oregon and effective on November 6, 2004 that was codified as Oregon Revised Statutes (ORS) 197.352 and that required, under certain circumstances, the payment of just compensation to landowners if a government land use regulation restricted the use of property and reduced its value, or, in the alternative, authorized the government to remove, modify, or not apply one or more challenged regulations.
- G. Owner.** A person who is:
1. The owner of fee title to the property as shown in the deed records of the county where the property is located;
 2. The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
 3. If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.
- H. Program Manager.** The person authorized to administer and oversee the processing of claims under this Chapter.
- I. Protection of Public Health and Safety.** A law, rule, ordinance, order, policy or permit or other governmental authorization that restricts a use of property in order to reduce the risk or consequence of fire, earthquake, landslide, flood, storm, pollution, disease, crime or other natural or human disaster or threat to persons or property including, but not limited to, building and fire codes, health and

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sanitation regulations, solid or hazardous waste regulations and pollution control regulations.

- J. Reduction in Value.** A decrease in fair market value of the property from the date that is one year before the enactment of the land use regulation to the date that is one year after enactment, plus interest, adjusted by any ad valorem property taxes not paid as a result of any special assessment of the property under ORS 308A.050 to 308A.128, 321.257 to 321.390, 321.754 or 321.805 to 321.855, plus interest, offset by any severance taxes paid by the claimant and by any recapture of potential additional tax liability that the claimant has paid or will pay for the property if the property is disqualified from special assessment under ORS 308A.703.
- K. Waiver.** Action by the Portland City Council to modify, remove or not apply one or more land use regulations found to have caused a reduction in value.

5.75.030 Filing an Amended Claim.

- A.** A person may amend a Measure 37 claim that was filed with the City of Portland on or before June 28, 2007.
- B.** To qualify for compensation or waiver, a person filing an amended claim under this section must establish that:
- 1.** The claimant is an owner of the property;
 - 2.** All owners of the property have consented in writing to the filing of the claim;
 - 3.** The property is located, in whole or in part, within the City of Portland;
 - 4.** On the claimant's acquisition date, the claimant lawfully was permitted to establish at least the number of single family dwellings on the property that are authorized under Measure 49;
 - 5.** The property is zoned for residential use;
 - 6.** A land use regulation prohibits the establishment of a single-family dwelling;
 - 7.** The establishment of a single-family dwelling is not prohibited by a land use regulation described in ORS 197.352(3);

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8. The land use regulation described in paragraph 6 of this section was enacted after the date the property, or any portion of it, was brought into the Metro Urban Growth Boundary;
 9. The land use regulation described in paragraph 6 of this section was enacted after the date the property, or any portion of it, was annexed to the City of Portland;
 10. The enactment of the land use regulation caused a reduction in the fair market value of the property; and
 11. The highest and best use of the property was residential use at the time the land use regulation was enacted.
- C. A person filing an amended Measure 37 claim under this section must submit the following information:
1. The name, street address and telephone number of the claimant and all other persons and entities with an interest in the property;
 2. A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property, the deed registry of the instrument by which the claimant acquired the property, the location and street address and township, range, section and tax lot number(s) of the property, and the date on which the owner acquired the property interest;
 3. A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim;
 4. A reference to any and all specific, existing land use regulations the claimant believes reduced the value of the property and a description of the manner in which the regulation prohibits the residential use of the property;
 5. A copy of the city land use regulations that applied to the property at the time the challenged land use regulations became applicable to, or were enforced against, the property;
 6. An appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted;

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7. A description of the claimant's proposed use of the property if the Council chooses to waive a land use regulation instead of paying compensation;
 8. If the property is or has been enrolled in one or more of the special assessment programs listed in Section 5.75.020 J., information regarding tax amounts not paid as a result of the program or programs; and
 9. A statement whether the claimant filed a claim with other public entities on or before June 28, 2007, involving the same property and a copy of any decision made by the entity on the claim.
- D.** The Program Manager shall notify all claimants who filed claims on or before June 28, 2007, and whose claims were not decided by the City Council prior to December 6, 2007, that they may amend their claims under this section and shall provide a form for amended claims. A claimant must submit an amended claim under this section to the Program Manager within 120 days after the date of notice under this paragraph or the claimant is not entitled to relief.

5.75.040 Review of Amended Claim by Program Manager.

- A.** The Program Manager shall review a claim filed under Section 5.75.030 to ensure that it provides the information required by Subsection 5.75.030 C. If the Program Manager determines that the claim is incomplete, the Program Manager shall, within 21 days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the Program Manager does not notify the owner that the claim is incomplete within the prescribed 21 days, the claim shall be considered complete on the date it was filed with the City of Portland.
- B.** The Program Manager shall review the claim for compliance with the requirements of Subsection 5.75.030 B. and prepare a tentative determination of compliance not later than 90 days after the filing of a complete claim. The Program Manager shall provide written notice to the claimant, the Department, and owners of property within 200 feet of the claim property of the tentative recommendation as to whether the claimant qualifies for the number of single-family dwellings the City of Portland proposes to authorize. The written notice shall inform recipients they have 15 days to submit evidence or argument to the Program Manager in response to the tentative recommendation. The Program Manager shall make a final recommendation on the claim within 135 days of the date the claimant notifies the Program Manager of the claimant's intent to continue the claim.
- C.** The Program Manager's recommendation to approve or deny a claim under Subsection B of this section shall be in writing and shall be supported by a brief explanation for the basis of the recommendation.

5.75.050 Hearing on Amended Claim by City Council.

- A.** The Auditor shall schedule each amended claim for consideration by City Council at a regularly scheduled City Council meeting. After considering the report and final recommendation by the Program Manager and any other material the Council determines is relevant, the Council shall make its final determination and adopt a final decision and order that explains the determination.
- B.** The City Council shall take final action within 180 days of receipt of a claim.
- C.** The City Council's decision shall be in writing and shall be supported by a brief explanation of the basis for the decision.
- D.** The Program Manager shall provide notice of the date, time and location of the public hearing at least 30 days before the hearing to the claimant, the Department, and owners of property within 200 feet of the claim property.

5.75.060 Filing a New Claim.

- A.** A person may file a claim after June 28, 2007, and will qualify for compensation or waiver, if:
 - 1.** The claimant is an owner of the property and all owners of the property have consented in writing to filing of the claim;
 - 2.** The claimant's desired use of the property is a residential use;
 - 3.** The claimant's desired use of the property is restricted by a land use regulation enacted after January 1, 2007;
 - 4.** The enactment of the land use regulation has reduced the fair market value of the property; and
 - 5.** The highest and best use of the property was residential use at the time the land use regulation was enacted.
- B.** A person filing a claim under this section must submit the fee for processing the claim prescribed in Section 5.75.090 and the following information:
 - 1.** The name, street address and telephone number of the claimant and all other owners of the property;

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2. A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property; the deed registry of the instrument by which the claimant acquired the property; the location and street address and township, range, section and tax lot number(s) of the property; the date on which the owner acquired the property interest; and any exceptions and encumbrances to title;
 3. A written statement signed by all owners of the property consenting to the filing of the claim;
 4. A citation to the land use regulation the claimant believes is restricting the claimant's desired use of the property;
 5. A description of the specific single-family residential use of the property that the claimant desires to carry out, but cannot because of the land use regulations;
 6. An appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted;
 7. If the property is or has been enrolled in one or more of the special assessment programs listed in Measure 49, Section 9(6), information regarding taxes not paid as a result of the program or programs; and
 8. A statement whether the claimant filed a claim with other public entities on or before June 28, 2007, involving the same property and a copy of any decision made by the entity on the claim.
- C. A person filing a claim under this section must file the claim within five years after the challenged land use regulation was enacted.

5.75.070 Review of New Claim by Program Manager.

- A. The Program Manager shall review the claim to ensure that it provides the information required by Section 5.75.060. If the Program Manager determines that the claim is incomplete, the Program Manager shall, within 60 days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the Program Manager does not notify the owner that the claim is incomplete within the prescribed 60 days, the claim shall be considered complete on the date it was filed with the Program Manager.

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- B.** A claim filed under this section shall not be considered complete until the claimant has submitted the information required by this section. If the claimant fails to submit a complete claim within 60 days after the notice prescribed in Subsection A, the claim shall be deemed withdrawn.
- C.** The Program Manager shall conduct a preliminary review of a claim to determine whether it satisfies all of the following prerequisites for full evaluation of the claim:
- 1.** The property lies within the City of Portland's jurisdictional boundary;
 - 2.** The land use regulation that is the basis for the claim is a provision of a city land use regulation; and
 - 3.** The claimant acquired an interest in the property before the effective date of the land use regulation and has continued to have an interest in the property since the effective date.
- D.** If the claim fails to satisfy one or more of the prerequisites in subsection C of this section, the Program Manager shall prepare a report to that effect and recommend to the City Council that it dismiss the claim following a public hearing under Section 5.75.080.
- E.** If the claim satisfies each of the prerequisites in Subsection C of this section, the Program Manager shall complete the review of the claim to determine whether it satisfies the criteria in Section 5.75.060.
- F.** The Program Manager may commission an appraisal or direct other research in aid of the determination whether a claim meets the requirements of ORS 197.352 and to assist in the development of a recommendation regarding appropriate relief for a valid claim.
- G.** The Program Manager shall prepare a written report with the determinations required by Subsection E of this section and the reasoning to support the determination. The report shall include a recommendation to the City Council on the validity of the claim and, if valid, whether the City of Portland should compensate the claimant for the reduction of value or waive the regulation. If the Program Manager recommends compensation or waiver, the report shall recommend any conditions that should be placed upon the compensation or waiver to help achieve the purpose of this chapter and the policies of the City of Portland's comprehensive plan. If the Program Manager recommends waiver, the report shall recommend the specific number of single-family dwellings the City of Portland should authorize commensurate to the reduction in fair market value of the property.

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- H.** The Program Manager shall provide the report to the City Council, the claimant, Metro, and other persons who request a copy.

5.75.080 Hearing on New Claim by City Council.

- A.** The City Council shall hold a public hearing on a claim prior to its final determination. The Program Manager shall schedule the hearing for a date within 180 days after the filing of a completed claim.
- B.** The Program Manager shall provide notice of the date, time and location of the public hearing at least 30 days before the hearing to the claimant and owners of the subject property, owners and occupants of property within 100 feet of the subject property, the Department, Metro, and Multnomah County. The notice shall indicate that:
- 1.** A copy of the Program Manager's recommendation is available upon request;
 - 2.** Judicial review of the City of Portland's final determination is limited to the written evidence and arguments submitted to the City of Portland prior to or at the public hearing; and
 - 3.** Judicial review is available only for issues that are raised with sufficient specificity to afford the City of Portland an opportunity to respond in its final determination.
- D.** After the close of the public hearing the City Council shall make its final determination on the claim and enter an order with findings of fact and conclusions of law, based upon the record made before the City of Portland, that explain the determination. The Program Manager shall mail a copy of the final determination to the claimant, Multnomah County, and any person who submitted written or oral testimony prior to the close of the public hearing.
- E.** The City Council will make its final determination within 180 days of the date the claim is complete.

5.75.090 Claim Processing Fee

A claimant shall pay a \$250 fee to file a claim under Sections 5.75.030 and 5.75.060 of this Chapter. A claim will not be considered complete until the fee is paid. For any claims submitted on or after December 2, 2004 for which a fee was not paid at the time of claim submittal, the Program Manager may bill the owner for the fee at any time during the claim review process and prior to a final decision on the claim.

5.75.100 Determination of Common Law Vested Right.

- A.** A person with an approved Measure 37 claim may apply for a determination that the person has a common law vested right to continue and complete a use or development allowed by an approved Measure 37 claim consistent with Measure 49.
- B.** An applicant seeking to establish a common law vested right for an approved Measure 37 claim must submit the following information:

 - 1.** The name, mailing address, and telephone number of the applicant.
 - 2.** A legal description and tax lot numbers of the subject property as well as a street address for the property, if any.
 - 3.** A copy of the approved Measure 37 claim decision from the City of Portland and, if appropriate, the State of Oregon.
 - 4.** Additional information sufficient to address each of the factors listed in Subsection C of this Section.
- C.** The factors to be considered by the Program Manager and the City Council in determining whether the applicant has a common law vested right to continue and complete a use or development allowed by an approved Measure 37 claim are:

 - 1.** The amount of money spent on developing the use in relation to the total cost of establishing the use.
 - 2.** The good faith of the property owner.
 - 3.** Whether the property owner had notice of the proposed change in law before beginning development.
 - 4.** Whether any improvements could be used for other allowed uses.
 - 5.** The kind of use, and the location and cost of the development.
 - 6.** Whether the property owner's acts are more than mere contemplated use or preparation, such as the leveling of land, boring test holes, or preliminary negotiations with contractors or architects.
 - 7.** Other relevant factors.

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- D.** The Program Manager shall review the application to ensure that it provides the information required by Subsections B and C of this Section. If the Program Manager determines that the application is incomplete, the Program Manager shall, within 30 days after the filing of the application, provide written notice of the incompleteness to the applicant. If the applicant fails to respond or submit the missing information within 30 days of the date of the Program Manager's notice, the application shall be considered complete on the date it was filed with the City of Portland.
- E.** The Program Manager shall prepare a written report with the determinations required by Subsections B and C of this section and the reasoning to support the determination. The report shall include a recommendation to the City Council on whether the applicant has established a common law vested right to continue and complete a use or development allowed by an approved Measure 37 claim.
- F.** The Program Manager shall provide the report to the City Council, the claimant, Metro, and other persons who request a copy.

5.75.110 Hearing on a Common Law Vested Right By City Council.

- A.** The City Council shall hold a public hearing on an application for a common law vested right to continue and complete a use or development allowed by an approved Measure 37 claim prior to its final determination. The Program Manager shall schedule the hearing for a date within 90 days after the filing of a completed application.
- B.** The Program Manager shall provide notice of the date, time and location of the public hearing at least 30 days before the hearing to the applicant and owners of the subject property, owners and occupants of property within 100 feet of the subject property, and the Department. The notice shall indicate that:

 - 1.** A copy of the Program Manager's recommendation is available upon request;
 - 2.** Judicial review of the City of Portland's final determination is limited to the written evidence and arguments submitted to the City of Portland prior to or at the public hearing; and
 - 3.** Judicial review is available only for issues that are raised with sufficient specificity to afford the City of Portland an opportunity to respond in its final determination.
- C.** After the close of the public hearing the City Council shall make its final determination on the application and enter an order with findings of fact and

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conclusions of law, based upon the record made before the City of Portland, that explain the determination. The Program Manager shall mail a copy of the final determination to the claimant, the Department, and any person who submitted written or oral testimony prior to the close of the public hearing.

- D.** The City Council will make its final determination within 120 days of the date the claim is complete.

TITLE 7 BUSINESS LICENSES

Chapter 7.02

BUSINESS LICENSE LAW

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.
7.02.210	Administrative Authority.
7.02.220	Presumption of Doing Business.
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Chapter 7.02

BUSINESS LICENSE LAW

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

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7.02.005 Short Title.

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

7.02.010 Fees for Revenue.

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

7.02.020 Conformity to State Income Tax Laws.

The Business License Law is construed in conformity with the laws and regulations of the State of Oregon imposing taxes on or measured by net income. Any reference in this Chapter to the laws of the State of Oregon means the laws of the State of Oregon imposing taxes on or measured by net income as those laws existed for that particular tax year. The Bureau has the authority by written policy to connect to and/or disconnect from any legislative enactment that deals with income or excise taxation or the definition of net income. Should a question arise under the Business License Law on which this Chapter is silent, the 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.

The terms used in this Chapter are defined as provided in this section or in Administrative Rules adopted under Section 7.02.210, unless the context requires otherwise:

- A.** “Bureau” means the Revenue Bureau of the City of Portland, Oregon, along with its employees and agents.
- B.** “Business tax” means the tax owed by a taxfiler for any particular license tax year.

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

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before any allocation or apportionment for operation out of state, or deduction for a net operating loss carry-forward or carry-back.

- L.** “Individual” means a natural person.
- M.** “License Tax Year” means the taxable year of a person for federal or state income tax purposes.
- N.** “Net Operating Loss” means the negative taxable income that may result after the deductions allowed by the Business License Law in determining net income for the tax year.
- O.** “Non-business Income” means income not created in the course of the taxfiler’s business activities.
- P.** “Notice” means a written document mailed first class by the Bureau to the last known address of a taxfiler as provided to the Bureau in the latest registration form or tax return on file with the Bureau.
- Q.** “Ownership of Outstanding Stock or Securities” means the incidents of ownership which include the power to vote on the corporation’s business affairs or the power to vote for the directors, officers, operators or other managers of the taxfiler.
- R.** “Person” includes, but is not limited to, a natural person, sole proprietorship, partnership, limited partnership, family limited partnerships, joint venture (including tenants-in-common arrangements), association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.
- S.** “Received” means the postmark date affixed by the United States Postal Service if mailed or the date stamp if delivered by hand or sent by facsimile, or the receipt date from the online file and pay application confirmation notice.
- T.** “Registration Form” means the initial form that establishes a taxfiler’s account with the Bureau.
- U.** “Tax return” means any tax return filed by or due from the taxfiler, including an annual exemption request form.
- V.** “Tax Year” means the taxable year of a person for Federal and/or State income tax purposes.

- W.** “Taxfiler” means a person doing business within the City and required to file a return, a registration form or other income documentation under the Business License Law.

7.02.110 Income Defined.

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

7.02.200 Administration.

- A.** The Bureau is responsible for administering the Business License Law. Authority granted to the Director may be delegated, in writing, to another employee within the Bureau.
- B.** The Bureau may, upon request, interpret how the Business License Law applies, in general or for a certain set of circumstances.
- C.** Nothing in this Chapter precludes the informal disposition of controversy by stipulation or agreed settlement, through correspondence or a conference with the Director.

7.02.210 Administrative Authority.

- A.** The Director may implement procedures, forms, and written policies for administering the provisions of the Business License Law.

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- B.** The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with Business License Law.
- C.** Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will publish a notice in a newspaper of general circulation in the City. The notice must be published not less than ten nor more than thirty days before the hearing, and it must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.
- D.** At the public hearing, the Director or designee will receive oral and written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review will be conducted, but no additional public notice is required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Bureau's office. Copies of all current rules will be made available to the public upon request.
- E.** Notwithstanding Subsections C. and D. of this Section, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph is effective for a period of not longer than 180 days.

7.02.220 Presumption of Doing Business.

A person is presumed to be doing business in the City and subject to this Chapter if engaged in any of the following activities:

- A.** Advertising or otherwise professing to be doing business within the City; or
- B.** Delivering goods or providing services to customers within the City; or
- C.** Owning, leasing, or renting personal or real property within the City which is used in a trade or business; or
- D.** Engaging in any transaction involving the production of income from holding property or the gain from the sale of property, which is not otherwise exempted in this Chapter. Property may be personal, including intangible or real in nature; or
- E.** Engaging in any activity in pursuit of gain which is not otherwise exempted in this Chapter.

7.02.230 Confidentiality.

It is unlawful for any City employee, agent or elected official, or for any person who has acquired information pursuant to Section 7.02.240 A. and C., to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of the Business License Law, unless otherwise required by law. This section does not prohibit:

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

7.02.240 Persons to Whom Information May be Furnished.

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

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

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

2. Execute a certificate, in a form prescribed by the Bureau, stating these provisions of law have been reviewed and they are aware of the penalties for the violation of Section 7.02.230.

7.02.250 Taxfiler Representation.

No person will be recognized as representing any taxfiler in regard to any matter relating to the tax of such taxfiler without written authorization of the taxfiler or unless the Bureau determines from other available information the person has authority to represent the taxfiler.

7.02.255 Representation Restrictions.

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

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

- A. The Bureau may request information or examine any books, papers, records or memoranda, including state and federal income or excise tax returns, to ascertain the correctness of any license registration or tax return, or to make an estimate of any business tax. The Bureau has the authority, after notice, to:
 1. Require the attendance of any person subject to the requirements of the Business License Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Bureau may designate;
 2. Take testimony, with or without the power to administer oaths to any person required to be in attendance; and
 3. Require proof for the information sought, necessary to carry out the provisions of this Chapter.
 4. Require the property manager of a tenants-in-common arrangement to provide financial information related to the arrangement as well as information regarding the owners, including but not limited to the name and last known address of the owners.

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- B.** The Director will designate the employees that have the power to administer oaths hereunder. Such employees must be notaries public of the State of Oregon.

7.02.270 Records.

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

7.02.280 Deficiencies and Refunds.

- A.** Deficiencies may be assessed and refunds granted any time within the period provided under ORS 314.410, ORS 314.415, and ORS 317.950. The Bureau may by agreement with the taxfiler extend such time periods to the same extent as provided by statute.
- B.** Consistent with ORS 314.410 (3), in cases where no tax return has been filed, there is no time limit for a notice of deficiency and/or the assessment of taxes, penalty, and interest due.
- C.** Notwithstanding Subsections A. and B., the Bureau is not required to accept any tax return from a taxfiler if:
 - 1.** The Bureau obtains a money judgment against the taxfiler for failure to pay an unpaid account balance due; and
 - 2.** The Bureau or its designee lawfully served the taxfiler with the lawsuit pursuant to the Oregon Rules of Civil Procedure; and
 - 3.** The tax return is for a taxable year that is the subject of the money judgment; and
 - 4.** The Bureau gave written notice stating that the taxfiler had an outstanding balance due at least 30 days before the Bureau (or its designee) filed a lawsuit for those particular tax years.

7.02.290 Protests and Appeals.

- A.** Any determination by the Bureau may be protested by the taxfiler. Written notice of the protest must be received by the Bureau within 30 days after the Bureau mailed or delivered the notice of determination to the taxfiler. The protest must state the name and address of the taxfiler and an explanation of the grounds for the protest. The Bureau must respond within 30 days after the protest is filed with either a revised determination or a final determination. The Bureau's

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determination must include the reasons for the determination and state the time and manner for appealing the determination. The time to file a protest or the time for the Bureau's response may be extended by the Bureau for good cause. Requests for extensions of time must be received prior to the expiration of the original 30 day protest deadline. Written notice will be given to the taxfiler if the Bureau's deadline is extended.

- B.** Any final determination by the Bureau may be appealed by the taxfiler to the Business License Appeals Board (the "Appeals Board"). Written notice of the appeal must be received by the Bureau within 30 days after the Bureau mailed or delivered the final determination to the appellant. The notice of appeal must state the name and address of the appealing taxfiler ("appellant") and include a copy of the final determination.
- C.** Within 90 days after the Bureau mails or delivers the final determination to the appellant, the appellant must file with the Appeals Board a written statement containing:

 - 1.** The reasons the Bureau's determination is incorrect, and
 - 2.** What the correct determination should be.

Failure to file such a written statement within the time permitted will be deemed a waiver of any objections, and the appeal will be dismissed.
- D.** Within 150 days after the Bureau mails or delivers the final determination to the appellant, the Bureau must file with the Appeals Board a written response to the appellant's statement. A copy of the Bureau's response must be mailed to the address provided by the appellant within 10 days.
- E.** The Bureau must provide the appellant written notice of the hearing date and location at least 14 days prior to the hearing. The appellant and the Bureau may present relevant testimony and oral argument at the hearing. The Appeals Board may request additional written comment and documents as it deems appropriate.
- F.** Decisions of the Appeals Board must be in writing, state the basis for the decision and be signed by the Appeals Board Chair.
- G.** The decision of the Appeals Board is final as of the issue date and no further administrative appeal will be provided.
- H.** The filing of an appeal with the Appeals Board temporarily suspends the obligation to pay any tax that is the subject of the appeal pending a final decision by the Appeals Board.

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- I.** Penalty waiver and/or reduction requests are not subject to the protest/appeal process or timeline outlined in Sections 7.02.290 A. through 7.02.290 H.. The taxfiler must file a written request with the Bureau detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The Bureau must respond to requests to reduce and/or waive penalties within 60 days from the date the written request is received. As provided in Section 7.02.700 G., the Bureau may waive or reduce penalties in certain situations. If the taxpayer has requested that penalties be waived and the Bureau denies the taxpayer's request for this discretionary waiver of penalties, the taxpayer may request a conference with the Director (or designee) within 30 days of the date of the Bureau's notice of denial. If the conference with the Director results in a denial of the penalty waiver request, that decision is final and may not be appealed to the Business License Appeals Board.

7.02.295 Business License Appeals Board.

The Business License Appeals Board (the "Appeals Board") hears appeals and consists of the following members:

- A.** A member of the public appointed by the City Auditor for a two year term that expires every even year.
- B.** A member of the public appointed by the elected official in Charge of the Bureau, (whether that elected official is the Mayor or a Commissioner) for a two year term that expires every odd year.
- C.** Three members of the public appointed by the Mayor, subject to confirmation by the City Council. In making the initial appointments, one member will be appointed for one year, one for two years and one for three years. After making the initial appointments, each member will serve for a term of three years.
- D.** Appointments to the Business License Appeals Board must provide for an appropriate level of expertise in accounting methods and tax regulation.
- E.** No employee or agent of the City may be appointed to or serve on the Business License Appeals Board.

7.02.300 Certificates of Compliance.

- A.** Within 60 days of beginning business, the taxfiler must complete a registration form. The Bureau will issue a "Certificate of Compliance" upon registration to assist businesses in proving their compliance to regulatory agencies or to the public. Subsequently, after each year's tax filing the Bureau may issue a

Certificate of Compliance indicating that the taxfiler is in compliance with the City's Business License Tax Law for that particular year.

- B.** The City's issuance of a "Certificate of Compliance" does not entitle a taxfiler to carry on any business not in compliance with all other requirements of this Code and all other applicable laws.
- C.** A taxfiler is deemed to be doing business within the City within any fiscal year he or she receives income from business activity conducted within the City, notwithstanding that such activity has ceased. Income from business activity that has ceased includes, but is not limited to, income from installment sales (including sales of real property), collection of accounts receivable, covenants not to compete, and income from contractual agreements related to the trade or business activity.

7.02.310 Duplicate Certificates of Compliance.

Upon request by the taxfiler a duplicate Certificate of Compliance may be issued to replace any Certificate previously issued that has been lost or destroyed. Duplicate Certificates will be issued in accordance with the Bureau's written policy.

7.02.330 Account Merger or Division.

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

7.02.350 License Tax Year Term.

Each license tax year begins on the first day of the month in which a taxfiler became subject to the requirements of this Chapter. Each license tax year expires at the end of the applicable tax period on the basis of which the taxfiler computes net income under the applicable laws of the State of Oregon imposing taxes on or measured by net income, not to exceed one year.

7.02.400 Exemptions.

The Bureau may require the filings of tax returns or other documentary verification of any exemption claimed under this section. To the extent set forth below, the following persons are exempt from payment of the business license tax, and/or the following incomes are exempt from calculation of the business license tax:

- A.** Persons whom the City is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.

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- B.** Income arising from transactions which the City is prohibited from taxing under the Constitution or the laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- C.** Persons whose gross receipts from all business, both within and without the City, amounts to less than \$50,000 (\$25,000 for tax years that begin prior to January 1, 2007). The Bureau may demand a statement that the person's gross receipts for the license tax year will be less than \$50,000. If such person was exempt hereunder during the prior tax year, an additional statement must be filed indicating the gross receipts for such year were less than \$50,000 and indicating the amount thereof.
- D.** Corporations exempt from the Oregon Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.920 to 317.930 must pay a business tax based solely on such income.
- E.** Trusts exempt from Federal income tax under Internal Revenue Code Section 501, provided that any exempt trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501 (b), must pay a business tax based solely on that income.
- F.** Any individual whose only business transactions are exclusively limited to the renting or leasing of residential real property dwelling units provided that the beneficial owner rents or leases less than ten total units, regardless of whether they are located inside or outside of the Portland City limits. For purposes of this subsection, payments to foster care and other service providers are considered payments for "services" and not for "rent." If a building contains more than one residential living quarter, the term "dwelling unit" refers to each separate living quarter. This exemption does not apply if any income is recognized from the sale of residential rental property.
- G.** The following incomes of an individual:
 - 1.** Income from sales, exchanges or involuntary conversions of a primary or secondary residence;
 - 2.** Income from the sale of personal property acquired for household or other personal use by the seller;
 - 3.** Income from interest and dividend income earned from investments if the income is not created in the course of or related to the taxfiler's business activities;

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4. Income from gains and losses incurred from the sale of investments (other than real property) that are not a part of a business.
- H.** Any person whose only business transactions are exclusively limited to the following activities:
1. Raising, harvesting and selling of the person's own crops, or the feeding, breeding, management and sale of the person's own livestock, poultry, furbearing animals or honeybees, or sale of the produce thereof, or any other agricultural, horticultural or animal husbandry activity carried on by any person on said person's own behalf and not for others, or dairying and the sale of dairy products to processors. This exemption does not apply if, in addition to the farm activities described in this subsection, the person does any processing of the person's own farm products which changes their character or form, or the person's business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others; or the processing of milk or milk products whether produced by said person or by others for retail or wholesale distribution.
 2. Operating within a permanent structure a display space, booth or table for selling or displaying merchandise by an affiliated participant at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any tax year.
- I.** Gross incomes subject to Chapters 7.12 or 7.14. Unless otherwise prohibited by law, income which is not otherwise subject to Chapters 7.12 or 7.14 is subject to the Business License Law.
- J.** Gross incomes subject to franchise fees under residential solid waste, recycling and yard debris collection franchises issued by the City of Portland. Income which is not otherwise subject to such franchise fees is subject to the Business License Law.
- 7.02.500 Tax Rate.**
- A.** The tax established by the Business License Law is 2.2 percent of adjusted net income, except as provided in Subsections B. and C. of this section.
 - B.** Surcharges applicable to Tax Years 2002 through 2005. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland.

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1. For the tax year beginning on or after January 1, 2002, a surcharge is imposed in the amount of 1 percent.
 2. For tax year beginning on or after January 1, 2003, a surcharge is imposed in the amount of 0.4 percent.
 3. For tax year beginning on or after January 1, 2004, a surcharge is imposed in the amount of 0.4 percent.
- C. Surcharge applicable to Tax Years 2006 through 2007. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland. The proceeds of the surcharges must be used by the school districts only for programs and activities on which the City is authorized to expend funds pursuant to its charter and state law.
1. For the tax year beginning on or after January 1, 2006, a surcharge is imposed in the amount of 0.14 percent.
 2. No penalties or interest for failure to make quarterly estimated payments in the amount of the surcharge will be charged or imposed for the 2006 tax year.
 3. For the tax year beginning on or after January 1, 2007, a surcharge is imposed in the amount of .07 percent.
 4. If the surcharges raise more than \$9 million plus City costs but less than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, will be dedicated to public schools within the City as provided in Subsection C. of this Section. If the surcharges raise more than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, will be retained as a credit for taxes due in a later tax year. The Director will apply the credit to taxes due no later than the 2010 tax year. The Director has the sole discretion to determine the method of calculating and distributing credits.

7.02.510 Registration Form and Tax Return Due Dates.

- A. All persons subject to the requirements of this Chapter must register with the Bureau on a form provided or approved by the Bureau. Thereafter, taxfilers must file tax returns with the Bureau. The following timing requirements apply:

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1. Registration forms must be filed within 60 days of the person beginning business in the City.
 2. Tax returns must be filed by the 15th day of the fourth (4th) month following the end of the tax year.
- B.** The Bureau may, for good cause, grant extensions for filing tax returns, except that no extension may be granted for more than six (6) months beyond the initial filing due date. This extension does not extend the time to pay the tax.
- C.** Registration forms and tax returns must contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.
- D.** The Bureau will prepare blank registration forms and tax returns and make them available at its office upon request. Failure to receive or secure a form does not relieve any person from the obligation to pay a business tax.

7.02.520 Quarterly Estimates.

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

7.02.530 Schedule for Payment of Estimated Tax.

A taxfiler required under Section 7.02.520 to make payments of estimated business taxes must make the payments in installments as follows:

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

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7.02.545 Tax Returns.

Except as provided in Section 7.02.540, each tax return must be accompanied by a tax payment at the rate established in Section 7.02.500, provided that each such tax return must be accompanied by a minimum tax of \$100 plus any amount due as a result of the temporary surcharge established in Section 7.02.500 B. and D. The minimum payment may have previously been paid by quarterly payments, an extension payment, or credit available from a prior tax year.

7.02.550 Presumptive Tax.

- A.** If a person fails to file a tax return, a rebuttable presumption exists that the tax payable amounts to \$500 for every license tax year for which a tax return has not been filed.
- B.** Nothing in this Section prevents the Bureau from assessing a tax due which is less than or greater than \$500 per license tax year.
- C.** Presumptive taxes assessed under this subsection are considered filed documents and are subject to the time limitations for deficiencies and refunds as described in Section 7.02.280.
- D.** Taxes determined under this subsection are subject to penalties and interest from the date the taxes should have been paid as provided in Section 7.02.510 in accordance with Sections 7.02.700 and 7.02.710. The Bureau will send notice of the determination and assessment to the taxfiler.

7.02.560 Payment Plan Fee.

If a person fails to pay the business tax when due, the Bureau may establish a payment plan and charge a set up fee pursuant to written policy.

7.02.600 Income Determinations.

- A. Owners Compensation Deductions.** “Owners Compensation Deduction” is defined as the additional deduction allowed in Subsections B., C. and D. below. The owners compensation deduction is indexed (beginning in January 1999) by the Consumers Price Index - All Urban Consumers (CPI-U) US City Average as published by the US Department of Labor, Bureau of Labor Statistics, using the September to September index, not seasonally adjusted (unadjusted index). The Bureau determines the exact deduction amount and publishes the amount on forms. Any increase or decrease under this paragraph that is not a multiple of \$500 will be rounded up or down to the next multiple of \$500 at the Bureau’s discretion. For tax years beginning on or after January 1, 2007, the owners compensation deduction cannot exceed \$80,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1,

2008, the owners compensation deduction will be indexed as previously described.

- B. Sole Proprietorships.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, owners. However, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per owner.
- C. Partnerships.** In determining income, no deductions are allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability companies, limited liability partnerships, or family limited partnerships. Guaranteed payments to partners or members are deemed compensation paid to owners for services rendered. However:
1. For general partners or members, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per general partner or member.
 2. For limited partners or members of LLCs who are deemed limited partners by administrative rule or policy, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the lesser of actual compensation and interest paid or the amounts listed in Subsection A. per compensated limited partner.
- D. Corporations.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, controlling shareholders of any corporation, including but not limited to, C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75 percent of the corporation's income, determined without deduction of compensation or interest, is allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amounts listed in Subsection A. for each controlling shareholder.
1. For purposes of this Subsection, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees or interest paid to all persons meeting the definition of a controlling shareholder must be included.
 2. For purposes of this Subsection, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents and children count as one owner, unless such spouse, parent or child individually control more than five (5) percent ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or

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child who owns more than five (5) percent of stock is deemed to be an additional controlling shareholder.

3. For purposes of this Subsection, joint ownership of outstanding stock or securities is not considered separate ownership.
- E. **Estates and Trusts.** In determining income for estates and trusts, income is measured before distribution of profits to beneficiaries. No additional deduction is allowed.
- F. **Non-business Income.** In determining income under this Section, an allocation is allowed for non-business income as reported to the State of Oregon. However, income treated as non-business income for State of Oregon tax purposes may not necessarily be defined as non-business income under the Business License Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business is treated as business income for purposes of the Business License Law. Income derived from non-unitary business functions reported at the State of Oregon level may be considered non-business income. Non-unitary income will not be recognized at an intrastate level. The taxfiler has the burden of showing that income is non-business income.
- G. **Taxes Based on or Measured by Net Income.** In determining income, no deduction is allowed for taxes based on or measured by net income. No deduction is allowed for the federal built-in gains tax.
- H. **Ordinary Gain or Loss.** In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under Subsections 7.02.400 G. and H. must be included as ordinary gain or loss.
- I. **Net Operating Loss.** In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75 percent of the income determined for the current license tax year before this deduction, but after all other deductions from income allowed by this Section and apportioned for business activity both within and without the City of Portland.
 1. When the operations of the taxfiler from doing business both within and without the City result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.02.610. However, in no case may a net operating loss be carried forward from any license tax year during which the taxfiler conducted no business within the City or the taxfiler was otherwise exempt from license requirements.

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2. In computing the net operating loss for any license tax year, the net operating loss of a prior year is not allowed as a deduction.
3. In computing the net operating loss for any license or tax year, no compensation allowance deduction is allowed to increase the net operating loss. "Compensation allowance deduction" is defined in Subsection 7.02.600 A.
4. The net operating loss of the earliest license tax year available must be exhausted before a net operating loss from a later year may be deducted.
5. The net operating loss in any license tax year is allowed as a deduction in the five (5) succeeding license tax years until used or expired. Any partial license tax year will be treated the same as a full license tax year in determining the appropriate carry-forward period.

7.02.610 Apportionment of Income.

- A. "Business activity" means any of the elements of doing business. However, a person is not considered to have engaged in business activities solely by reason of sales of tangible personal property in any state or political subdivision, or solely the solicitation of orders for sales of tangible personal property in any state or political subdivision. Business activities conducted on behalf of a person by independent contractors are not considered business activities by the person in any state or political subdivision.
- B. In computing the business license tax, taxfilers that have income from business activity both within and without the City must determine the income apportioned to the City by multiplying the total net income from the taxfiler's business by a fraction, the numerator of which is the total gross income of the taxfiler from business activity in the City during the tax year, and the denominator of which is the total gross income of the taxfiler from business activity everywhere during the tax year.
- C. In determining the apportionment of gross income within the City under Subsection 7.02.610 B.:
 1. Sales of tangible personal property are deemed to take place in the City if the property is delivered or shipped to a purchaser within the City regardless of the f.o.b. point or other conditions of sale. If sales of tangible personal property are shipped from the City to a purchaser located where the taxfiler is not taxable, those sales are not apportioned to the City.

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2. Sales other than sales of tangible personal property are deemed to take place in the City if the income producing activity is performed in the City.
- D. Certain industries or incomes are subject to specific apportionment and/or allocation methodologies. Such methodologies are described in administrative rules adopted in accordance with Section 7.02.210. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes will be used in cases where no rule has been adopted by the Bureau regarding the apportionment of such industry or income. In those specific cases where Oregon has directed allocation of income, such income will be apportioned for purposes of this Chapter, unless allocation is otherwise allowed in this Chapter.
- E. If the apportionment provisions of Subsection B. do not fairly represent the extent of the taxfiler's business activity in the City and result in the violation of the taxfiler's rights under the Constitution of this State or the United States, the taxfiler may petition the Bureau to permit the taxfiler to:
 1. Utilize the method of allocation and apportionment used by the taxfiler under the applicable laws of the State of Oregon imposing taxes upon or measured by net income; or
 2. Utilize any other method to effectuate an equitable apportionment of the taxfiler's income.

7.02.620 Changes to Federal and/or State Tax Returns.

- A. If a taxfiler's reported net income under applicable Oregon laws imposing a tax on or measured by income is changed by the federal Internal Revenue Service or the Oregon Department of Revenue, or amended by the taxfiler to correct an error in the original federal or state return, a report of such change must be filed with the Bureau within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report must be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.
- B. The Bureau may assess deficiencies and grant refunds resulting from changes to federal, state, city or county tax returns within the time periods provided for in Section 7.02.280, treating the report of change in federal, state, city or county tax returns as the filing of an amended tax return.
- C. The Bureau may assess penalties and interest on the additional tax due as provided in Subsection 7.02.700 A. and 7.02.710 A., or may refuse to grant a

refund of business taxes as a result of the amended tax return if the amended tax return is not filed with the Bureau within the time limits set forth in Subsection A.

7.02.630 Income Long Term Construction Contract Methods.

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

7.02.700 Penalties.

- A.** A penalty will be assessed if a person:
 - 1.** Fails to file a tax return or extension request at the time required under Subsections 7.02.510 A. or 7.02.620 A.; or
 - 2.** Fails to pay the tax when due.
 - 3.** The penalty under Subsection A. is:
 - a.** Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months;
 - b.** An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more; and
 - c.** An additional penalty of 100 percent (1.00) of the total tax liability of all license tax years if the failure to file is for three (3) or more consecutive license tax years.
- B.** A penalty will be assessed if a person who has filed an extension request:
 - 1.** Fails to file a tax return by the extended due date; or
 - 2.** Fails to pay the tax liability by the extended due date.

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- 3.** The penalty under Subsection B. is:
 - a.** Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months; and
 - b.** An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more.
- C.** A penalty will be assessed if a person:
 - 1.** Fails to pay at least 90 percent (0.90) of the total tax liability, but not less than \$100, by the original due date; or
 - 2.** Fails to pay at least 100 percent (1.00) of the prior year's total tax liability by the original due date.
 - 3.** The penalty under Subsection C. is five percent (.05) of the tax underpayment, but not less than \$5.
- D.** A penalty of \$100.00 may be assessed if a person fails to file a registration form at the time required under Subsection 7.02.510 A.
- E.** The Director may impose a civil penalty of up to \$500 for each of the following violations of the Business License Law:
 - 1.** Failure to file any tax return within 60 days from the due date as further outlined in Section 7.02.510 of this Chapter; or
 - 2.** Failure to pay any tax within 60 days of the Bureau's original written notice for payment; or
 - 3.** Failure to provide either documents or information (as required by Section 7.02.260) within 60 days of the Bureau's original written notice to provide the documents or information; or
 - 4.** Failure to fully complete any form required under this Chapter.
- F.** The Director may impose a civil penalty under Subsections E.2. and E.3. only if the Bureau gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.
- G.** The Bureau may waive or reduce any penalty determined under Subsections A. through E. for good cause, according to and consistent with written policies.

7.02.710 Interest.

- A.** Interest will be assessed on any unpaid business tax at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax to the 15th day of the month following the date of payment.
- B.** Interest will be assessed on any unpaid or underpaid quarterly estimated payment required by Sections 7.02.520 and 7.02.530 at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.
- C.** Notwithstanding Subsection B. there is no interest on underpayment of quarterly estimated payments if:

 - 1.** The total tax liability of the prior license tax year was less than \$1,000; or
 - 2.** An amount equal to at least 90 percent (0.90) of the total tax liability, but not less than \$100, for the current license tax year was paid in accordance with Section 7.02.530; or
 - 3.** An amount equal to at least 100 percent (1.00) of the prior year's total tax liability was paid in accordance with Section 7.02.530.
- D.** For purposes of Subsection B., the amount of underpayment is determined by comparing the 90 percent of the current total tax liability amount to quarterly estimated payments made prior to the original due date of the tax return. However, if 100 percent of the prior year's total tax liability is paid to the Bureau by the due date of the fourth quarterly payment, the Bureau may use the prior year's tax liability if doing so will reduce the amount of interest owed.
- E.** For purposes of Subsection A. of this Section, the amount of tax due on the tax return will be reduced by the amount of any tax payment made on or before the date for payment of the tax in accordance with Subsection 7.02.510 A. or Section 7.02.530.
- F.** Interest at the rate specified in Subsection A. of this Section accrues from the original due date without regard to any extensions of the filing date.
- G.** Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the Bureau, unless specifically provided for by written policy.

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7.02.715 Payments Applied.

Business taxes received will be applied first to any penalty accrued, then to interest accrued, then to business taxes due, unless the Bureau determines in accordance with its written policies that a more equitable method exists for a particular taxfiler's account.

7.02.720 Interest on Refunds.

When, under a provision of the Business License Law, taxfilers are entitled to a refund of a portion of the business tax paid to the Bureau, they will receive simple interest on such amount at the rate specified in Subsection 7.02.710 A., subject to the following:

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

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

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

7.02.800 Refundable Credit.

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

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- A. “Local Business”** means a business operating in the pursuit of profit, gain or the production of income that:
1. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and
 2. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and
 3. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland ’s Business License Law and the Multnomah County Business Income Tax Law.
- B. “Disconnected Youth”** means a youth that is
1. a resident of the City of Portland,
 2. is 16-24 years old on the date on which the youth begins working with the local business,
 3. has a household income that is at or below 50 percent of the HUD Portland Area Median Income, and
 4. one or more of the following apply:
 - a. is receiving (or has received in the last six months) or is a member of a family receiving Temporary Assistance for Needy Families or Aid to Families with Dependent Children or Supplemental Security Income; or
 - b. is a 16-24 year old member of a family that is receiving (or has received in the last six (6) months) food stamps; or
 - c. is a custodial parent; or
 - d. is a high school drop-out; or
 - e. is an adjudicated youth, meaning that he/she currently is, or has been, in the Oregon Juvenile Justice System or the equivalent thereof in another state.

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- C. “Qualified Youth Employment Organization”** means an organization that is qualified and funded to operate youth employment and training programs by the youth certifying agency.
- D. “Credit Certificate”** means a pre-numbered certificate issued by the Youth Certifying Agency upon fulfillment of the employment contract. A separate certificate is required for each credit granted to a business.
- E. “Youth Certifying Agency”** means an agency that has entered into an agreement or other memorandum of understanding with the Bureau to act as the Youth Certifying Agency for the purpose of this program.
- F. “2005 Tax Year”** means a tax year that begins on or after January 1, 2005 and ends on or before November 30, 2006, but does not exceed a 12 month period.
- G. “2006 Tax Year”** means a tax year that begins on or after January 1, 2006 and ends on or before November 30, 2007, but does not exceed a 12 month period.
- H. “Non-exempt”** means that the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.

7.02.810 Credits Issued.

- A.** For the 2005 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. For the 2006 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. The credit is non-refundable if the local business was exempt during the tax year in which it claimed the credit. The credit cannot be used to offset amounts due under the Multnomah County Business Income Tax.
- B.** The 100 refundable credits allocated per year will be issued on a first come, first served basis as measured by the date on which the youth certifying agency completes the certification process for any particular business.
- C.** A maximum of four (4) credits can be claimed on the tax return based on the taxable income for the tax year in which the credit is claimed. If a consolidated, combined or joint return is required to be filed under Section 7.02.110 B., the consolidated, combined or joint group is limited to a maximum of four (4) credits.
- D.** Credit certificates can only be used in the tax year in which they are claimed and cannot be used in any other tax year.

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

7.02.820 Obligations of Participating Businesses.

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

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

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

The Revenue Bureau is authorized to collect and remit donations from taxfilers to “Work for Art,” a program of the Regional Arts & Culture Council.

- A.** Taxfilers may donate to “Work for Art” by either
 - 1.** paying a sum above what is owed for their City business taxes, or
 - 2.** by designating that all or some of any refund due to them be instead donated to “Work for Art.”

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- B.** To indicate a desire to donate, the taxfiler must check the appropriate donation box on their tax return for the tax year in question. In addition, the taxfiler must indicate the amount that is to be donated.
- C.** Once the tax return is filed with the Bureau, the taxfiler may not cancel the donation or request that it be instead credited to any other outstanding receivable owed to the Bureau.

7.02.840 Frivolous Filing.

A \$500.00 penalty will be assessed if a taxfiler takes a "frivolous position" in respect to preparing the taxfiler's tax return. A tax return is considered frivolous if a taxfiler does not provide information on which the substantial correctness of the self-assessment may be judged or if the tax return contains information that on its face indicates that the self-assessment is substantially incorrect. Examples of "frivolous positions" as provided in Oregon Administrative Rule 150-316.992(5) are hereby adopted by direct reference.

7.02.850 Hacking.

- A.** Any individual who intentionally accesses the Bureau's computer database without authorization will be fined:
 - 1.** \$500 if the individual acquires any information regarding any business account found in the database;
 - 2.** \$1,000 or the cost of the loss (whichever is greater) if the individual uses or attempts to use the acquired information for financial gain of any kind; or
 - 3.** \$5,000 or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the Bureau's computer database, and, as a result of such conduct, causes damage to the database.
- B.** Definitions. As used in this section:
 - 1.** the term "Bureau's computer database" means computer application(s) used by the Bureau to calculate and store business and financial data collected under the authority granted by the Business License Law;
 - 2.** the term "loss" means any reasonable cost incurred by the City of Portland, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost,

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

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

7.02.860 First Year Adjustment Credit.

- A. Any taxfiler that was assessed a “First Year Adjustment” fee on a prior tax filing and has been licensed in all consecutive years since is entitled to receive a credit equal to that amount. The credit will be applied towards future City tax filings as a prepayment.
- B. If the amount of the credit cannot be determined from Bureau records, a rebuttable presumption exists that the credit amount is equal to the amount of the minimum fee payment due for the tax year in which the City assessed the “First Year Adjustment” fee. A taxfiler may present evidence to the Bureau showing that its First Year Adjust fee was higher than the minimum fee amount due for a particular tax year.
- C. Once the credit amount is determined, the Bureau will apply 20 percent of that amount towards tax payments due and owing for the next five license tax years, beginning with the 2008 license tax year. If a taxfiler files a “final” tax return before the fifth year (due to ceased business activity within the City), the Bureau will apply the full amount of the remaining credit towards the amount owing on the final tax return. If that credit amount exceeds the final tax amount due, the City will issue a refund for the difference.

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Chapter 7.03

TEMPORARY BUSINESSES

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

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

7.03.010 Temporary Businesses Exempt from Business License Law.

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

7.03.020 Fees for Revenue.

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

7.03.030 Temporary Businesses Defined.

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

- A.** “Amusement Ride Operator” means an operator of amusement rides not in the same location for more than 14 days.
- B.** “Temporary Structure Vendor” means a vendor not located in a permanent structure for more than 14 days.

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- C.** “Promoter” means a promoter of commercial entertainment doing business in the City of Portland for no more than three (3) days in any calendar year.
- D.** “Production Company” means a production company filming in the City of Portland for no more than three (3) days in any calendar year.
- E.** “Seasonal Vendor” means a vendor operating in a temporary location and conducting limited, seasonal sales (including, but not limited to, Christmas trees and fireworks).
- F.** “Special Events Vendor” means a vendor operating in a temporary location and selling special event-related merchandise (including, but not limited to, sporting events).

7.03.040 License Required; Fees.

Temporary businesses must apply for and obtain temporary business license certificates from the Revenue Bureau of the City of Portland. Temporary business license fees must be paid as provided below:

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

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Chapter 7.04

ADMINISTRATION

(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 7.12

**PUBLIC SERVICE PERMITS,
FRANCHISES AND REGULATIONS**

Sections:

7.12.010	Auditor to Keep Record of Franchises.
7.12.020	Holder of Franchise to Keep Accounts and Make Reports.
7.12.030	Bureau of Licenses or Designee Authorized to Inspect Books and Prescribe Forms.
7.12.040	Interest Payable on Deposits.
7.12.050	Contents of Franchise.
7.12.060	Privilege Tax Levies.
7.12.070	Privilege Tax Applicable to Other Cases.
7.12.080	Report of Gross Earnings.
7.12.090	Time of Payment of Tax.
7.12.100	No Waiver or Estoppel.
7.12.110	Credits Allowable.
7.12.120	Restricted to City Business.
7.12.200	Penalty Applicable.
7.12.210	Additional Annual Report.
7.12.220	Depreciation Accounts of Public Utilities.

7.12.010 Auditor to Keep Record of Franchises.

The Auditor shall keep a separate record of each grantee of a franchise from the City rendering a service to be paid for wholly or in part by users of such service, which record shall show in the case of each such grantee:

- A.** The true and entire cost of construction, equipment, maintenance, and of the administration and operation thereof; the amount of stock issued, if any; the amount of cash paid in; the number and par value of shares; the amount and character of indebtedness, if any; the rate of taxes; dividends declared; the character and amount of all fixed charges; the allowance, if any, for interest, and for wear and tear or depreciation; all amounts and sources of income;
- B.** The amount collected annually from the City Treasury and the character and extent of the service rendered therefor to the City;
- C.** The amount collected annually from other users of the service and the character and extent of the service rendered therefor to them. Such books of record shall be open to public examination at any time during the business hours of the Auditor's Office. Such information, in addition to any further data which may be required

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by the Auditor, under the City Charter, shall be furnished by the grantees or holders of such franchises to the Auditor upon his request, and at such grantees' own cost and expense.

In case any grantee or holder of a franchise fails or refuses to furnish such information when required so to do, on behalf of the City, the City Attorney shall petition the Circuit Court of the State of Oregon for Multnomah County to compel such grantee or holder to furnish the information required herein and to pay the costs of the proceedings in said Court.

7.12.020 Holder of Franchise to Keep Accounts and Make Reports.

Every person or corporation operating a public utility, whether under a franchise granted by the City or otherwise operating within the City and rendering service to be paid for wholly or in part by the users of such service, shall keep full and correct books and accounts and make stated quarterly reports in writing to the Council, verified by such person or officer of the corporation, which shall contain an accurate statement in summarized form as well as in detail of all receipts from all sources and all expenditures for all purposes, together with a full statement of all assets and debts including stock and bond issues, as well as such other information as to the cost and profits of the service, and the financial condition of such grantee as the Council may require, as provided for by Section 10-107, Quarterly Reports, of the Charter of the City, which Section of the Charter is incorporated in this Section by reference.

7.12.030 Bureau of Licenses or Designee Authorized to Inspect Books and Prescribe Forms.

(Amended by Ordinance No. 158792, effective July 17, 1986.) The Bureau of Licenses or designee is hereby authorized to inspect or examine, cause to be inspected or examined, at all reasonable hours, any and all books of account and vouchers of the grantee. Such books of account shall be kept and such reports made in accordance with forms and methods prescribed by the Bureau of Licenses, and so far as practicable shall be uniform for all grantees and holders of franchises, and shall conform to such reports as are required by State or federal public utilities commissions.

7.12.040 Interest Payable on Deposits.

Any person engaged in the business of furnishing or supplying gas or electricity for lighting, heating, or power purposes, or telephone service in the City, requiring of any patron the deposit of a sum of money as security for the prompt payment of bills when due, shall return to the patron within 1 year from the date the same is made the amount of the deposit together with interest thereon at the rate of 6 percent per year; provided, the patron is not indebted to the person at the date the deposit is returned. Such interest shall be payable at the time the deposit is returned; provided, however, that any person engaged in furnishing telephone service in the City may exact from each patron, or the patron may make, in lieu of such deposit, the payment of not more than 2 months rental in advance.

7.12.050 Contents of Franchise.

Each such franchise shall provide that the names of all the members of the co-partnership or association to which any such franchise may be granted, shall be kept constantly on file in the Office of the Auditor of the City and at all times shall be accessible to any person having any interest in such information. Each such franchise shall also contain a provision setting forth and requiring the minimum service to be rendered the public by the grantee of such franchise and each such franchise shall also include such terms, provisions, and conditions as the Council of the City may determine in addition to those required by the Charter and ordinances of the City.

7.12.060 Payment of Privilege Tax Required.

(Substituted by Ordinance No. 164761, effective Oct. 23, 1991.)

- A.** For the purposes of Section 7.12.060 through Section 7.12.120, “utility” shall mean any electric cooperative, people’s utility district, privately-owned public utility, or heating company.
- B.** Any utility using or occupying a street, alley, or highway within the corporate limits of the City without a franchise shall pay a privilege tax for the use and occupancy of any street, alley or highway.

 - 1.** The privilege tax imposed under this Subsection shall be in an amount of 5 percent of the utility’s gross revenues earned within the corporate limits of the City for each consecutive 3 month period. the privilege tax shall be computed as of the commencement of business or upon the expiration of any franchise under which the utility formerly operated. The privilege tax shall be due and payable so long as the utility operates with the City and uses or occupies the streets, alleys or highways.
- C.** Any telecommunications utility using or occupying a street, alley or highway within the corporate limits of the City shall pay a privilege tax for the use and occupancy of any street, alley or highway.

 - 1.** The privilege tax imposed under this Subsection shall be in any amount of 7 percent of the telecommunications utility’s gross revenues earned within the corporate limits of the City for each consecutive 3 month period. For the purposes of this paragraph, “gross revenues” shall mean all revenues derived from exchange access services, as defined in ORS 401.710, less uncollectibles from such revenues. The privilege tax shall be computed as of the commencement of business or upon the expiration of any franchise under which the telecommunications utility formerly operated. The privilege tax shall be due and payable so long as the telecommunications utility operates within the City and uses or occupies the streets, alleys or highways.

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- D.** In the event a franchise is granted to any utility subject to the privilege tax herein required and the franchise becomes effective, then the privilege tax shall cease to apply from the effective date of the franchise. The franchise holder shall pay the proportionate earned amount of the privilege tax for the current quarterly period. The privilege tax shall in all such cases become immediately due and payable, and if not paid, collectible as provided in Section 7.12.080.

7.12.070 Privilege Tax Applicable to Other Cases.

(Substituted by Ordinance No. 164761, effective Oct. 23, 1991.) The terms of Section 7.12.060 through Section 7.12.120 shall immediately apply to any utility using or occupying a street, alley or highway within the corporate limits of the City upon the expiration of the utility's franchise.

7.12.080 Report of Earnings.

(Substituted by Ordinance No. 164761, effective Oct. 23, 1991.)

- A.** Each utility and telecommunications utility subject to the privilege tax as provided in Section 7.12.060 shall file with the Office of Cable Communications and Franchise Management an audited statement of the revenues earned within the corporate limits of the City for each consecutive 3 month period.
- 1.** The first quarterly report shall be filed on or before the first payment date of privilege tax. Subsequent quarterly reports shall be filed on or before July 15, October 15, January 15, and April 15 of each year.
 - 2.** If a franchise is granted to a utility which is otherwise subject to the provisions of Section 7.12.060 the utility shall file a report with the Office of Cable Communications Franchise Management within 10 days after the franchise becomes effective showing the gross revenues earned for the proportionate period of the quarter prior to the franchise being granted.

7.12.090 Time Payment of the Privilege Tax.

(Substituted by Ordinance No. 164761, effective Oct. 3, 1991.)

- A.** Payment under Section 7.12.060 shall be made quarterly on or before July 20, October 20, January 20, and April 20 of each year.
- B.** If a utility or telecommunication utility fails to pay the privilege tax as required in Section 7.12.060 through Section 7.12.120, the City Attorney is authorized to institute an action in the Circuit Court of the State of Oregon for Multnomah County to recover the amount of the privilege tax due the City.

7.12.100 No Waiver or Estoppel.

(Substituted by Ordinance No. 164761, effective Oct. 23, 1991.) Nothing in Section 7.12.060 through 7.12.120, or in any ordinance granting a franchise or right to any utility or telecommunications utility, nor anything done or performed or monies expended under ordinance, shall estop or prevent the City from requiring the utility or telecommunications utility to cease using or occupying the streets, alleys or highways within the corporate limits of the City upon the expiration or other termination of such franchise or right to use or occupy the streets, alleys or highways.

7.12.110 Credits Allowable.

(Substituted by Ordinance No. 164761, effective Oct. 23, 1991.) Any amount which any utility or telecommunications utility may have paid to the City under the terms of any revocable permit or other authority for using the streets shall be credited against the amount or amounts which have accrued or shall have accrued under Section 7.12.060.

7.12.120 Restricted to City Business.

(Substituted by Ordinance No. 164761, effective Oct. 23, 1991.) The privilege tax levied by Section 7.12.060 shall not be applicable to earnings from interstate business or to earnings from business outside the corporate limits of the City.

7.12.130 Permits for Intracity Passenger Business.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.140 Application for Permit or Franchise.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.150 Conditions of Permit or Franchise.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.160 Regulations to be in Permit or Franchise.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.170 Fees.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.180 Statement of Finances to be Filed.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.190 No Effect on Certain Vehicles.

(Repealed by Ordinance No. 167242, effective Jan. 29, 1994.)

7.12.200 Penalty Applicable.

Any person subject to this Chapter or any officer or agent of any association or corporation subject to the provisions of this Chapter who, for a period of 30 days after the

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statement is required to be filed with the Auditor, fails, neglects, or refuses to file with the Auditor the quarterly statement of gross earning revenue of such person, association or corporation shall be subject to the penalties, including the criminal penalties, provided in Chapter 7.10 with respect to penalties for violation of the Business License Law.

7.12.210 Additional Annual Report.

Each person, firm or co-partnership operating a public utility in the City or, if such utility be an association or corporation, then the president and/or secretary and/or general manager or other officer or agent of such association or corporation having general control, management, or supervision of its business in the City, shall file with the Auditor a statement verified under oath containing the following information:

- A.** Type of corporation, if any;
- B.** List of officers and directors, and corporation control, including list of security holders and voting powers;
- C.** A balance sheet, supported by schedules showing in detail physical equipment or property, and adjustments, advances and investments, special funds, securities acquired or disposed of, itemized assets, losses and expenses, capital stock, notes and accounts payable, taxes, interest, reserves, capital surplus, income of various types, salary schedules, and information on important changes of organization;
- D.** As to plant or operating equipment, schedules showing its classification and changes therein, construction or acquisition, and progress report on property being constructed or acquired, depreciation and amortization and information to support the base therefor;
- E.** Revenues received from operation, including sources;
- F.** Operating expenses;
- G.** Rate base; and
- H.** Method by which it is determined.

This report shall cover the year ending the preceding December 31st and shall be filed on or before September 1, 1945, and June 1st thereafter, except as the Commissioner In Charge may extend the time for filing. This report shall be in addition to any and all other reports required by the Charter and ordinances of the City, including franchises and permits. It shall be sufficient hereunder if a copy of the report filed with the Commissioner of Public Utilities of Oregon, with the Interstate Commerce Commission, or with the Federal Communications Commission is filed with the Auditor.

7.12.220 Depreciation Accounts of Public Utilities.

Every grantee or holder of a franchise or permit from the City for public utility operation, or operating within the City a public utility, shall carry on its books a proper and adequate depreciation account in accordance with the requirements set forth by the State Public Utilities Commissioner, if the Commissioner has made a determination that such depreciation account can be reasonably required in the general operations of the public utility within the State. In the event that the State Commissioner has not ascertained and determined the proper and adequate rates of depreciation of the several classes of property of such public utility, or has not determined whether a depreciation account shall be required or not, such public utility shall request such a determination by the City Council. Such rates of depreciation shall be such as will provide the amounts required over and above the expenses of maintenance to keep such property in a state of efficiency corresponding to the progress of the industry. After such determination, such public utility shall conform its depreciation account to the rate so ascertained and determined by City Council. Any such determination shall be subject to review and change from time to time as the Council may find necessary or appropriate. All monies provided for depreciation shall be set aside out of the earnings and carried in a depreciation fund. The monies in this fund may be expended in replacements, new construction, extensions, or additions to the property of such public utility, or invested. If invested, the income from the investments and proceeds upon sale of such investments, shall also be carried in the depreciation fund. This fund and the proceeds thereof shall be used for no other purpose than as provided in this Section and for depreciation. No transfer shall be made from the depreciation fund or depreciation reserve account for any other purpose than set forth in this Section, without first and before such transfer, obtaining the approval of the City Council.

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Chapter 7.14

PUBLIC UTILITIES

Sections:

7.14.010	License Required.
7.14.020	Definitions.
7.14.030	Application - Issuance.
7.14.040	Fees and Payment.
7.14.045	Limitations.
7.14.050	Deductions.
7.14.060	Report of Gross Revenues.
7.14.070	Appeal and Collection.
7.14.080	Additional Penalty.
7.14.090	Interest on License Fee.

7.14.010 License Required.

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

7.14.020 Definitions.

(Amended by Ordinance Nos. 154857, 157530, 160949, and 163203 effective July 1, 1990.)

- A. Gross revenue.** As used in this Chapter, “gross revenue” includes any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts, from the sale of electrical energy, gas, steam or water, or sewage disposal and treatment service, and for use, rental, or lease of operating facilities of the public utility engaged in such business; from the furnishing or sale of communications or associated services by a telegraph business, or from a telecommunications or cable television business.
- B. Gross revenue of a telecommunications utility** means revenues derived from exchange access services.
- C.** Gross revenues do not include proceeds from the sale of bonds, mortgages, or other evidence of indebtedness, securities, or stocks, or sales at wholesale by one public utility to another of electrical energy when the utility purchasing such electrical energy is not the ultimate consumer.

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- D. Public utility.** As used in this Chapter, the term, “public utility” includes the business of supplying electrical energy, gas, heat or steam, water, cable television, communications, or other services through or associated with telecommunications utility, telephone or telegraph or coaxial cable, sewage disposal and treatment, and other operations for public service but does not include transportation service, railroad operations, or service otherwise licensed under this Title.
- E. Telecommunications utility.** As used in this Chapter, “telecommunications utility” has the meaning provided in ORS 759.005(1) (1989).
- F. Exchange access services.** As used in this Chapter, “exchange access services” means:
1. Telephone exchange access lines or channels which provide local access from the premises of a subscriber in the City to the local telecommunications network to effect the transfer of information; and
 2. Unless a separate tariff rate is charged therefor, any facility or service provided in connection with the services described in paragraph 1 hereof.

7.14.030 Application - Issuance.

(Amended by Ordinance No. 154857, effective July 1, 1983.) Any person, including the Bureau of Water of the City and the sewage disposal bureaus of the City, operating a public utility coming within the provisions of this Chapter shall make application for a license hereunder on forms supplied by the Bureau of Licenses and file the application in the Bureau. The initial application hereunder shall be made on or before July 1, 1946, for the remainder of the calendar year 1946; application for license shall be made on or before December 31, 1946, for the following calendar year, and on or before December 31 for each subsequent calendar year, except in the case of a public utility coming within the provisions of this Chapter which commences operations within the City after July 1, 1946. A person operating such utility shall make application for license on or before the date of commencing such operations. The Bureau of Licenses shall thereupon issue the license applied for.

7.14.040 Fees and Payment.

(Amended by Ordinance Nos. 154857, 157321, 160856, 160949, 163203, 172263, 174508 and 175847, effective July 1, 2000.) The fee for such license shall be measured by a percentage of the gross revenues received by the public utility for each quarter year period of licensed operation. Such percentage for each type of public utility shall be as follows beginning July 1, 1990:

Electrical Utility	5.0 percent
Gas Utility	5.0 percent
Sewer Utility	7.50 percent

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Steam Utility	5.0 percent
Water Utility	7.50 percent
Telecommunications Utility	7.0 percent
Telegraph Utility	5.0 percent
Cable Television Utility	5.0 percent

The licensee shall compute the license fee by multiplying the percentage applicable to the type of operation in which such utility engages, by the gross revenues received during the quarter. The resultant fee shall be paid to the City Treasurer on the following basis: on or before May 15 the fee for the period extending from January 1 through March 31, inclusive, of the same calendar year; on or before August 15 the fee for the period extending from April 1 through June 30, inclusive, of the same calendar year; on or before November 15 the fee for the period extending from July 1 through September 30, inclusive, of the same calendar year; on or before February 15 the fee for the period extending from October 1 through December 31, inclusive, of the preceding calendar year. All such payments shall be subject to the deductions set forth in Section 7.14.050. A licensee commencing operations as provided in Section 7.14.030 shall make the initial payment on or before the payment date following the quarter year period within which operations are commenced. In the event a licensee terminates operations which come within the provisions of this Chapter, the final payment shall be made on or before the 45th day following the date of such termination.

7.14.045 Limitations.

(Added by Ordinance No. 178717, effective October 1, 2004.) In any single year, the license fees paid by City of Portland water and sewer utilities shall not exceed \$12,809,321 from the City's sewer utilities, and \$4,184,153 from the City water utility until those fee payments equal 5% of gross revenues at which point they will increase to equal 5% of gross revenues those fees. The directors of the Bureau of Environmental Services and Bureau of Water Works are authorized to adopt administrative rules establishing mechanisms to implement this limitation.

7.14.050 Deductions.

(Amended by Ordinance No. 157321, effective June 10, 1985.) The licensee may deduct from the license fee required in this Chapter the amount of any payments made or accrued to the City for the period upon which the license fee is computed, under any provision of franchise, permit, or ordinance in lieu of franchise, and the value of any services, including free telephone service rendered to the City under the terms of a franchise, permit or ordinance in lieu of franchise, but excluding the value of any right given to City to use poles, conduits, or ducts to other facilities in common with the licensee, nor may any licensee deduct any permit or inspection fee imposed under any Code or ordinance of the City, and a telephone utility licensee may not deduct the fees agreed to be paid the City for street telephone booths. This Section shall not be deemed to relieve any licensee from paying in accordance with the provisions of a franchise,

permit, Charter provision or ordinance when the amount to be paid thereunder exceeds the amount of the license fee required under this Chapter.

7.14.060 Report of Gross Revenues.

(Amended by Ordinance No. 158792, effective July 17, 1986.) Coincidentally with the payment of the license fee required herein, the licensee shall file with the City Bureau of Licenses a report of the gross revenues of the licensed public utility, setting forth the revenues according to their accounting subdivisions, and any deductions claimed for the period upon which the license fee is computed. Within 30 days from the date such report is filed, or such additional time as the Council may allow, the Bureau of Licenses shall investigate the report and determine the accuracy of the amount reported. The Council, the Commissioner of Finance or the Commissioner of Public Utilities may require such additional investigation to be made by themselves or their agent, either simultaneously or subsequently as they may deem appropriate. For the purpose of such investigation the licensee shall make available for investigation all records and books of the company for verification of the reports of the company and the fees paid by the company. However, neither the payment nor a failure to make such investigation shall be deemed to estop the City in any way, or prevent subsequent investigation by any officer or agent of the City, and collection of any amount due. If the fee paid is determined to be excessive, the licensee shall be entitled to a refund of the excess paid. If the fee paid is found to be insufficient, the Bureau of Licenses shall notify the licensee of the amount of the deficiency, and demand payment of the amount.

7.14.070 Appeal and Collection.

(Amended by Ordinance No. 158792, effective July 17, 1986.) Within 10 days from the date of notice by the Bureau of Licenses that the fee paid is insufficient and payment demanded, the licensee may appeal to the Council from such demand, in writing and specifying the grounds of such appeal. If no such appeal be taken and the Council decides adversely to the licensee, or decides that any other amount is due, thereafter the Bureau of Licenses shall proceed to collect the amount determined to be due and unpaid.

7.14.080 Additional Penalty.

In lieu of any other penalties prescribed in this Code, Charter Section, franchise or ordinance provision, if the licensee fails to make payment of the fee deficiency determined to be due and unpaid in accordance with the provisions of Section 7.14.070 within 10 days of such final determination (unless the grace period is extended by the Council) the Commissioner of Public Utilities may suspend the license issued to the licensee. If any person operates a public utility coming within the provisions of this Chapter without a license as required herein or during a period of suspension, such person shall be liable for a license fee, computed at 2 percent of the gross revenues plus the appropriate percentage of the revenues for the type of business in which such utility engages as set forth in Section 7.14.040, received during the period on which the fee for the operations is computed.

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7.14.090 Interest on License Fee.

(Added by Ordinance No. 157728; amended by 162425, effective Sept. 28, 1989.)

- A.** Late Payments. If a public utility fails to pay to the City the utility license fee on or before the date on which the fee is due, interest shall be owed on the license fee from the due date to the date on which the City receives the license fee, compounded daily. The interest rate shall be equal to one percent over the existing prime interest rate as set by First Interstate Bank of Oregon, N.A., for the period during which the license fee is delinquent. Payment of interest shall be due at the same time that the utility pays the delinquent utility license fee to the City.
- B.** Audit charges. If a public utility fails to properly report the true amount of gross revenue from all accounts within the City of Portland as determined by representatives of the City after review of the utility's reports, interest will be owed on the under reported gross revenue calculated from the first day of the calendar quarter in which the error occurred to the date of billing by the City, compounded quarterly. The interest rate shall be equal to one percent over the existing prime interest rate as set by First Interstate Bank of Oregon, N.A., for the period during which the gross revenue was under reported. Payment of interest shall be due at the same time that the utility is required to make payment of any insufficiency of the license fee.

Chapter 7.16

CHARITABLE SOLICITATIONS

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

Chapter 7.18

**LIQUOR LICENSE
RECOMMENDATIONS**

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

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Chapter 7.22

**STREET AND SIDEWALK
USE PERMITS**

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

Sections:

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

7.22.010 Purpose.

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

7.22.020 Authorization.

- A.** The Street and Sidewalk Use Coordinator of the Bureau of Licenses is authorized to issue street and sidewalk use permits.
- B.** Adoption of Administrative Regulations. The Director of the Bureau of Licenses is authorized to adopt or amend administrative regulations pertaining to use of sidewalks and streets. All administrative regulations shall be in writing.
 - 1.** Prior to the adoption of any administrative regulations the Director of the Bureau of Licenses shall submit the proposed administrative regulations to the Street and Sidewalk Use Review Committee. After consultation with the Street and Sidewalk Use Review Committee, the Director of the Bureau of Licenses shall publish a notice regarding the proposed administrative regulations, and shall make them available for public review and written comments.

2. No sooner than thirty days from the publication of the notice, the Director of the Bureau of Licenses may adopt the proposed administrative regulations. All administrative regulations adopted by the Bureau Director shall be filed in the office of the Bureau of Licenses. Copies of all current administrative regulations shall be made available to the public upon request.
3. Notwithstanding subsections 1. and 2. of this section, the Director of the Bureau of Licenses may adopt interim administrative regulations without prior public notice upon the Director's finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for prejudice. Any administrative regulation adopted pursuant to this subsection shall be effective for a period of not longer than 180 days.

7.22.030 Permit Required.

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

7.22.040 Revocation of a Permit.

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

7.22.050 Permit Subject to Ordinances and Regulations.

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

7.22.060 Diversion of Traffic.

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

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7.22.070 Interference Prohibited.

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

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

Chapter 7.24

**TOWING AND PAY
AND PARK FACILITIES**

(New Chapter Added by Ordinance
No. 176585, effective July 5, 2002.)

Sections:

- 7.24.010 Towing of Vehicles from Private Property.
- 7.24.011 Administrative Authority.
- 7.24.012 Definitions.
- 7.24.013 Private Property Impound (PPI) Tower Registration.
- 7.24.014 Towing Regulations.
- 7.24.015 Towing and Storage Rates.
- 7.24.016 Conditions.
- 7.24.017 Prohibitions.
- 7.24.018 Remedies.
- 7.24.019 Appeals.
- 7.24.020 Pay and Park and Non-Pay Private Parking Facilities.
- 7.24.030 Locking Parked Cars.

7.24.010 Towing of Vehicles from Private Property.

(Replaced by Ordinance No. 178109, effective December 17, 2003.)

- A. Short Title.** Sections 7.24.010 through 7.24.019 shall be known as the PPI (Private Property Impound) Code.
- B. Purpose.** The purpose of the PPI Code is to require that towing from private parking facilities be performed safely and at a reasonable price. Because towing from private parking facilities affects city residents and visitors, regulation is necessary to ensure that the public safety and convenience are protected.
- C. Conformity to State Laws.** The PPI Code shall be construed in conformity with the laws and regulations of the State of Oregon Motor Vehicle Code regarding towing from private property. The Director shall have authority to adopt administrative rules in accordance with the State of Oregon Motor Vehicle Code.
- D. Savings Clause.** If any provision of the PPI Code is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such holding shall not affect the validity, legality and enforceability of any other provision of the PPI Code.

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7.24.011 Administrative Authority.

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.)

- A.** The Director is authorized and directed to enforce all provisions of the PPI (Private Property Impound) Code. The Director shall have the power to investigate any and all complaints regarding alleged violations of the PPI Code. The Director may delegate any or all authority granted under this Section to the Towing Coordinator or any Revenue Bureau officer, employee or agent.
- B.** The Director is authorized to adopt and enforce administrative rules interpreting and applying the PPI Code. The Director or designee shall make written findings of fact and conclusions of law to support all decisions.
- C.** Prior to the adoption of a new administrative rule, the Director shall give notice to all interested parties of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.
 - 1.** At the public hearing, the Director or designee shall hear oral and written testimony concerning the proposed rule. The Director shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.
 - 2.** The Director shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.
 - 3.** Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Revenue Bureau and the Office of the City Auditor in compliance with Section 1.07.030. Copies of all current rules shall be available to the public upon request.
 - 4.** Notwithstanding 7.24.011 C. 1. and 2., the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.
- D.** Rates. The Director is authorized to establish a schedule of maximum rates permissible for all PPI tows from properties located within the city limits of

Portland. The jurisdiction of this code section may be expanded by intergovernmental agreement with other agencies.

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

7.24.012 Definitions.

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.) For the purposes of the PPI (Private Property Impound) Code, and administrative rules adopted by the Director pursuant to the PPI Code, certain terms, phrases, words, abbreviations and their derivations shall be construed as specified in this Section. Words used in the singular include the plural and the plural the singular. Terms, phrases, words, abbreviations and their derivatives used, but not specifically defined in this Section, either shall have the meanings defined in the State of Oregon Motor Vehicle Code, or if not therein defined, shall have the meanings commonly accepted in the community.

- A.** **"Director"** means the Director of the Revenue Bureau.
- B.** **"Dispatching facilities"** means the PPI tower's facilities used for communication with Tow Desk and maintaining radio contact with tow vehicles.
- C.** **"Oversized tow vehicle"** means a tow truck equipped to perform towing of automobiles or other vehicles, and which has a maximum gross vehicle weight rating (GVWR) of over 10,000 pounds. Vehicles with maximum GVWR of at least 19,000 pounds are designated as "Class B." Vehicles with maximum GVWR of at least 44,000 pounds are designated as "Class C."
- D.** **"Owners agent"** means a person bearing documentation from the registered owner officially authorizing them to possess or operate the vehicle.
- E.** **"PPI Police tow"** means any PPI tow that, upon notification to the local police agency, is found to have been reported stolen, or for any other reason becomes a police tow as defined in the Contract for Vehicle Towing and Storage of the City of Portland, or requires a police release.
- F.** **"PPI tower"** means any towing firm duly registered and permitted to perform Private Property Impound tows within the City of Portland.
- G.** **"Private parking facility"** means any property used for motor vehicle parking at which the property owner or manager restricts or reserves parking. Private parking facility does not include:

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1. Property used for governmental purposes by any agency or special district; or
 2. Property used primarily for residences, including houses and apartment houses where there is designated parking for 10 or fewer vehicles.
 3. Pay and park facilities and non-pay private parking facilities duly registered under Section 7.24.020.
- H. "Private parking facility owner"** means the owner, operator, lessee, manager or person in lawful possession of a private parking facility, or any designated agent of the private parking facility owner.
- I. "Private Property Impound" (PPI)** means the impoundment of a vehicle from a private parking facility at the request of the property owner, operator, lessee, manager or person in lawful possession of the private property facility, without the prior consent of the vehicle's registered owner.
- J. "Release at Scene" (RAS)** means the fee allowed to be charged when a vehicle owner/owner's agent returns before the PPI tower has departed in tow. Not applicable until the hookup is complete and tow truck is in motion.
- K. "Storage facility"** means a secure area, meeting all requirements of Administrative Rule LIC 9.01, used by PPI tower for storing towed vehicles.
- L. "Storing"** means holding a towed vehicle in an approved secure storage facility until it is redeemed by the registered owner/owner's agent or until a possessory lien is foreclosed.
- M. "Tow Desk"** means the private tow dispatching company contracted with the City of Portland for municipal tow dispatching and data management or any government agency serving this function.
- N. "Towing"** means to draw or pull along a vehicle by means of a tow truck or car carrier.
- O. "Towing Coordinator"** means the person designated by the Director to provide direct enforcement and administration of all provisions of this Section and applicable administrative rules.
- P. "Towing firm" or "Tower"** means any entity whose business includes the towing of motor vehicles from private parking facilities and the subsequent storage of such towed vehicles.

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- Q. "Tow vehicle"** means a tow truck equipped as specified in Administrative Rule LIC 9.01 to perform towing of automobiles, motorcycles, or other motor vehicles, and which has a minimum Gross Vehicle Weight Rating (GVWR) of 10,000 lbs.
- R. "Vehicle owner"** means the person registered with the Department of Motor Vehicles as the owner of the vehicle.

7.24.013 Private Property Impound (PPI) Tower Registration.

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.)

- A.** Initial registration. No PPI (Private Property Impound) tower shall tow or store vehicles towed from private parking facilities unless the PPI tower has registered with the Director and complied with all provisions of the PPI Code.
- B.** Applications. The PPI tower shall submit to the Director an application form containing all information specified in Administrative Rule LIC 9.01.
- C.** Reporting Changes. Changes in information contained in the PPI tower's application, including office and/or storage locations, insurance provider, employees or additional trucks shall be filed with the Director prior to implementation of such changes.
- D.** Inspection. The PPI tower's towing equipment, dispatching and storage facilities shall be inspected prior to issuance of a new PPI permit.
- 1.** If an applicant is currently in good standing as a Tow Contractor under the City of Portland Contract for Vehicle Towing and Storage, and the storage facility and tow vehicles to be inspected are currently approved for use under the City Tow Contract, the qualifying PPI inspection may be waived by the Director.
- E.** Registration/expiration dates. PPI permits shall be valid for no more than one (1) year, and all such permits shall expire yearly on December 31st.
- F.** Renewal. Renewal notices shall be sent to all registered PPI towers not less than one month prior to the annual expiration date. A renewal form requesting any changes in the registered information shall be provided. Re-inspections shall not be required for renewal. Any permit not renewed within 30 days after the expiration date shall be invalid and a new application must be submitted and approved before PPI towing resumes.
- G.** Non-assignability. A registration issued or renewed pursuant to the provisions of this Section shall not be assignable or otherwise transferable.

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- H.** Indemnification and Insurance. PPI towers subject to the PPI Code agree to hold harmless, defend and indemnify the City of Portland, and its officers, agents and employees for all claims, demands, actions and suits, including all attorney fees and costs, for damage to property or injury to person arising from any activities, work and/or services furnished or carried on under the terms of a PPI permit.
1. PPI tower shall maintain such public liability and property damage insurance as will protect the PPI tower from all claims for damage to property or personal injury, including death, which may arise from operations pursuant to the PPI Code. Such insurance shall include a single limit liability policy with coverage of not less than \$1,000,000.00 (\$1 million). PPI tower shall also maintain fire and theft insurance (garage keepers insurance) to protect stored vehicles in a minimum amount of \$100,000.00 and maintain cargo insurance in the minimum amount of \$50,000.00.
 2. PPI tower shall maintain insurance in the limits provided by this section to cover liability for transportation required by Section 7.24.016 G. In no case shall the policy deductible for garage keepers and cargo insurance exceed \$2,500 per event.
 3. The limits of the insurance shall be subject to statutory changes to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the permit. The insurance shall be without prejudice to coverage otherwise existing.
 4. The insurance shall name as additional insureds the City and its officers, agents and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts which the insurer would have been liable if only one person or interest had been named as insured. The coverage shall apply as to claims between insureds on the policy.
 5. The insurance shall provide that the insurance shall not terminate or be canceled without thirty days written notice first being given to the Towing Coordinator.
 6. The adequacy of the insurance shall be subject to the approval of the City Attorney.

7. Failure to maintain liability insurance shall be cause for immediate revocation of the registration by the Director.

7.24.014 Towing Regulations.

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.) It shall be unlawful to tow a vehicle from a private parking facility:

- A. Except upon express written authorization issued to the PPI (Private Property Impound) tower by the private parking facility owner, or person in lawful possession of the property, in compliance with ORS 98.812 and 98.830; or
- B. Unless the private parking facility complies with Administrative Rule LIC 9.02 regarding signage requirements; or
- C. Unless the vehicle shall be towed directly to the PPI tower's storage facility; or
- D. If that vehicle is occupied by a person or persons.

7.24.015 Towing and Storage Rates.

(Added by Ordinance No. 178109, effective December 17, 2003.) The Director shall issue a schedule of approved maximum fees for PPI (Private Property Impound) towing and storage at the beginning of each permit period. Such schedule shall be published annually and supplied to all applicants with the application materials for new permits and renewals. PPI towers may submit a request for an increase in the approved maximum fees not later than two months before the end of any permit period. The Director shall consider such requests and hold a public hearing for the purpose of determining fair and reasonable prices prior to making any changes in the PPI rate schedule.

7.24.016 Conditions.

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.) PPI (Private Property Impound) towers registered under this Section shall:

- A. Perform all PPI tows in a safe manner, taking care not to cause damage to the person or property of others while towing or storing a vehicle; and
- B. Practice courtesy and professionalism when dealing with police, Tow Desk, agency personnel, and persons redeeming or seeking to redeem a towed vehicle; and
- C. Cooperate fully with any police agency to facilitate processing of any PPI towed vehicle identified as a possible stolen vehicle; and
- D. Issue to the owner/owner's agent a clearly legible receipt complete with all required information and with all fees and considerations itemized; and

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- E.** Prominently display at the vehicle release location a placard, provided by the City of Portland, containing the current list of approved PPI rates; and
- F.** Prominently display at the vehicle release location a placard, provided by the City of Portland, containing a statement of the rights of the vehicle owner; and
- G.** Be considered in possession of any vehicle towed under this Section, and therefore entitled to charge a Release at the Scene fee, when the hookup is complete and the tow truck has begun towing the motor vehicle by engaging the tow truck's transmission and moving forward; and
- H.** Offer to call for or provide transportation to the vehicle owner/operator, from within the immediate vicinity of the tow scene to the location of the towed vehicle storage; and
- I.** Have staff or dispatch service available at all times to provide information about the location of a towed vehicle and/or instructions for release of a towed vehicle; and
- J.** Staff the storage facility with an attendant between 8:00 a.m. and 6:00 p.m., Monday through Friday, excluding official City holidays, and at all other hours have personnel available at the storage facility to release a vehicle within thirty (30) minutes after receiving a request for vehicle release; and
- K.** Accept at least the following methods of payment for any fees assessed:
 - 1.** Cash. Adequate cash must be available at all times at the storage facility and with the tow drivers for the purpose of making change; or
 - 2.** By any valid credit card or debit card bearing the VISA emblem and issued in the name of the registered owner/owner's agent; and
- L.** Notify the local police agency of the intent to tow by telephone call to the Tow Desk prior to attaching any equipment to a vehicle at a private parking facility; and
- M.** Notify the local police agency of the location of the vehicle by facsimile transmission to the Tow Desk within one hour after the vehicle is placed in storage; and
- N.** Notify the local police agency of the release of a vehicle to the registered owner/owner's agent, acceptance of a vehicle title in lieu of payment, or

foreclosure of a possessory lien by facsimile transmission to the Tow Desk within eight (8) hours after the release; and

- O.** Pay a data service fee, in an amount established by the Director, for each vehicle released to the registered owner or owner's agent. Such data fees shall be payable to the Tow Desk by the 20th day of each month; and
- P.** Pay a service fee, in an amount established by the Director, for each vehicle released to the registered owner or owner's agent. Such service fees shall be payable to the City of Portland by the 20th day of each month; and
- Q.** Accept as proof of ownership vehicle title or registration in addition to valid photo-identification of the person seeking the release.
- R.** Exercise reasonable care for the welfare of any animal found to be in a PPI towed vehicle, as detailed in Administrative Rule LIC 9.04 Conditions.

7.24.017 Prohibitions.

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.) PPI (Private Property Impound) towers registered under this PPI Code shall not:

- A.** Charge any fee not listed in, or in excess of, those included in the fee schedule established by the Director.
- B.** Require any vehicle owner/owner's agent to make any statement or sign any document promising not to dispute validity of the tow or fees assessed or relieving the PPI tower from responsibility for the condition of the vehicle or its contents;
- C.** Solicit PPI towing business by means of payment of a gratuity, commission or any other consideration, except as provided in this PPI Code, to the private property owner, operator, manager or employee;
- D.** Remove a vehicle from a private parking facility unless the hookup has been completed and all safety equipment has been attached.
- E.** Use predatory practices, as defined in Administrative Rule LIC 9.05, to secure PPI tows.
- F.** Release a vehicle designated as a PPI Police tow without a release or other authorization from the appropriate police agency.

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- G.** Assess or collect a surcharge fee, in lieu of towing, unless the parking lot is registered as a pay and park facility in compliance with Section 7.24.020 "Pay and Park and Non-Pay Private Parking Facilities."
- H.** Make any false statements of material fact, misrepresent information in any document or omit disclosure of material fact in performance of activities regulated by this Code.

7.24.018 Remedies.

(Added by Ordinance No. 178109, effective December 17, 2003.) Failure to comply with any part of the PPI (Private Property Impound) Code or the administrative rules may be punishable by any or all of the following:

- A.** Suspension. The Director may suspend a PPI tower's permit if investigation reveals any substantial violation of the PPI Code or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods have failed to resolve. Suspension may be for a period of up to fourteen calendar days. The suspension shall be effective from the PPI tower's receipt of written notice of a suspension. If the violation is not corrected within the fourteen day period, the Director may revoke the permit.
- B.** Revocation. The Director may revoke a permit for any substantial violation of the PPI Code or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods fail to resolve. The revocation shall be effective immediately upon issuance of written notice by the City of Portland to the PPI tower. No new application shall be accepted from any PPI tower with outstanding penalties or who has been revoked within the current term for the remainder of the current permit period.
- C.** Civil penalty. The Director may impose a civil penalty of up to \$500.00 for any substantial violation of the PPI Code or the administrative rules, including:
 - 1.** Late payment of data service fees to Tow Desk. The penalty shall be \$50.00 for each incident.
 - 2.** Late payment of service fees to the City of Portland. The penalty shall be \$50.00 for each incident.
 - 3.** Late report or failure to report a release. The penalty shall be \$50.00 for each incident.
 - 4.** Civil penalties shall be payable to the City of Portland.

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- D.** Refund to vehicle owner/owner's agent. Upon a finding of any violation by a PPI tower, the Director may direct release of a vehicle at no charge or a refund of all or part of fees paid by a vehicle owner/owner's agent for towing and storage, in lieu of, or in addition to, civil penalties.
- E.** Public nuisance. Any towing equipment or PPI tower's storage facility maintained in violation of the PPI Code is hereby declared to be a public nuisance. The Director may request that the City Attorney bring action or suit to abate such nuisance in any court with jurisdiction to hear such action or suit.
- F.** Civil remedies. Nothing in this Section is intended to prevent any person from pursuing legal remedies.

7.24.019 Appeals.

(Added by Ordinance No. 178109; amended by Ordinance No. 180129, effective May 10, 2006.)

- A.** Any towing firm whose application for initial PPI (Private Property Impound) permit registration or renewal of PPI permit registration has been denied, or whose permit registration has been revoked or suspended, or who has been directed by the Director or director's designee to pay a civil penalty or refund, may appeal such action of the Director or director's designee by submitting a written request for a hearing before the Code Hearings Officer of the City of Portland, within 10 business days of receiving the Director's written findings, as set out in Chapter 22.10.
- B.** Creation of PPI Board of Appeals. Pursuant to Portland City Charter Section 2-103, City Council hereby creates the PPI Board of Appeals. The PPI Board of Appeals shall hear and resolve protests and appeals arising from adoption of Administrative Rules by the Director. The findings of the PPI Board of Appeals shall be final.
 - 1.** Composition of the PPI Board of Appeals. The PPI Board of Appeals shall consist of three members. A quorum shall consist of three members. The Commissioner in Charge of the Revenue Bureau shall appoint a representative member from a public agency and a representative member of the general public, and shall approve a representative member from the towing industry selected by the towing industry.
 - 2.** Compensation. All members of the PPI Board of Appeals shall serve without pay, except that they may receive their regular salaries during the time spent on Board matters.

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3. Procedures and Rules. The Director shall establish rules and procedures for the Board and the Board shall follow those procedures in all matters heard by the Board.
4. Staff. The Revenue Bureau shall provide staff and assistance to the Board.
5. Powers of the Board. The PPI Appeals Board shall hear protests of Administrative Rules adopted by the Director. Written notice of the protest must be received by the Revenue Bureau Towing Coordinator within 30 days after the notice of adoption of the Administrative Rule. The protest shall state the name and address of the PPI tower and an explanation of the grounds for the protest. Requests not received within 30 days of the notice of adoption shall not be heard.

7.24.020 Pay and Park and Non-Pay Private Parking Facilities.

(Replaced by Ordinance No. 179796, effective December 30, 2005.)

- A. Purpose. The purposes of this Section are to ensure that the regulation of parking at pay and park lots and non-pay private parking facilities shall be applied objectively with proper notice; and protecting fairness and convenience for the parking public.
- B. Savings Clause. If any provision of this Section is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such holding shall not affect the validity, legality and enforceability of any other provision of this Section.
- C. Definitions. Except where the context requires otherwise, the following words and phrases shall have the definitions given in this Section:
 1. **"15-day notice"** means the letter providing second notice of a penalty which must be sent by the operator to the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle.
 2. **"Boot"** means a mechanical device attached to a vehicle to prevent its movement.
 3. **"Director"** means the Director of the Bureau of Licenses.
 4. **"Non-pay private parking facility"** means any facility at which the free parking or storage of motor vehicles is limited by time or authorization by the property owner/operator. Non-pay private parking facility does not include pay and park facilities or any facility owned or used by a public agency or district.

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5. **"Operator"** means any entity whose business includes assessing and collecting penalties at pay and park or non-pay private parking facilities.
6. **"Park"** means to leave a vehicle standing for more than 5 minutes with no driver at the wheel.
7. **"Parker"** means the owner, operator, or other person in control of any vehicle parking at a registered pay and park facility or non-pay private parking facility.
8. **"Pay and park facility"** means any facility open for parking or storage of motor vehicles by the general public, at which the fee for parking is payable by meter, coin box, or other similar device, or by use of a payment device at any time during hours of operation, and payment of parking fees is enforced by issuance of penalty fee notices. Pay and park facility does not include any facility owned or used by a public agency or district.
9. **"Payment device"** means any mechanical or electrical device capable of accepting or receiving parking fee payments by cash or credit card and issuing sequentially numbered receipts or tickets.
10. **"Penalty fee"** means a fee assessed for failure to pay for parking, or properly display proof of payment, at a pay and park facility. This term also applies to a fee assessed for unauthorized or over-time parking at a non-pay private parking facility.
11. **"Penalty notice"** means the initial demand for payment of a penalty fee which is affixed to vehicles parked without authorization on a pay and park or non-pay private parking facility.

D. Authorization.

1. **Enforcement.** The Director is authorized to enforce all provisions of this Section.
 - a. **Investigation.** The Director shall have the power to investigate any and all complaints regarding alleged violations of this Section.
 - b. **Inspection.** The Director may inspect any records required by this Section to be maintained by any operator. Such records shall be made available for inspection during normal business within 24 hours of notice by the Director.

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- c. Delegation. The Director may delegate the authority provided under this Section to any Bureau of Licenses officer or employee.
 2. Procedures and forms. The Director may adopt procedures and forms to implement the provisions of this Section.
 3. Adoption of rules. The Director may adopt rules pertaining to matters within the scope of this Section.
 - a. Prior to the adoption of any rule by the Director pursuant to this Section, a public hearing shall be conducted. The Director shall give reasonable public notice of his or her proposal to adopt rules not less than ten nor more than thirty days before such public hearing. Such notice shall include the place, time, and purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.
 - b. During the public hearing, the Director shall hear statements or receive written comment concerning the proposed rules. The Director shall either adopt the proposed rule, modify, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review shall be conducted, but no additional public notice shall be required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification shall be discussed. Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Bureau's office. Copies of all current rules shall be made available to the public upon request.
 - c. Notwithstanding subparagraphs a. and b. of this paragraph, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly shall result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this subparagraph shall be effective for a period of not longer than 180 days.
- E. Rates. The Director shall establish a maximum designated penalty fee for vehicles parked on pay and park, or non-pay, private parking facilities without the authorization of the property owner/operator.

- F.** Registration of pay and park and non-pay private parking facility. No person shall collect any penalty fees at any pay and park, or non-pay private parking facility, unless such facility has first been registered with the Director and is in compliance with the provisions of this Section.
- 1.** Applications. The operator of any pay and park, or non-pay private parking facility shall submit to the Director an application form containing:
- a.** The name, address and telephone number of the applicant;
 - b.** Proof of valid insurance as described in this Section;
 - c.** A copy of the proposed notice of demand for payment;
 - d.** A sample copy of the 15-day notice.
 - e.** Penalty fee notices, 15-day notices and any subsequent demands for payment shall include:
 - (1)** The name, address and telephone number of the operator;
 - (2)** A description of the vehicle, including make, model, color and license plate;
 - (3)** The time and date the notice was issued;
 - (4)** The exact location of the pay and park or non-pay private parking facility;
 - (5)** Any facility number that may be assigned by the operator;
 - (6)** The amount of the penalty demanded;
 - (7)** Appropriate instructions describing deadlines and acceptable methods of payment;
 - (8)** Any additional fees that may be added if not paid within 30 days; and
 - (9)** A statement that the vehicle owner may submit a written complaint to the Bureau of Licenses if attempts to resolve the complaint with the operator have been unsuccessful.

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- f. The name, address and telephone number of any collection agency that may be employed by the operator for collection of delinquent payments;
 - g. Such other information relating to the purposes of this Section as the Director may require.
2. The Director shall reject any incomplete application, or any application received without the nonrefundable registration fee of \$100.00 for each pay and park, or non-pay private parking facility.
3. The Director shall review the operator's proposed penalty notice and the proposed 15 day notice letter, and approve or reject them. Rejected documents shall be returned to the applicant for amendment and resubmission. There shall be no additional registration fee for resubmission. If such documents have previously been approved by the City, it shall not be necessary to resubmit them with each new location application.
 - a. The notice of demand for payment form shall not represent to be a document issued by any government agency or government official, or otherwise simulate legal or judicial process. The penalty fee notice form shall be subject to the review and approval of the City Attorney's Office.
4. The Director shall inspect the pay and park, or non-pay private parking facility for which an application has been made. If the Director determines that a facility complies with all of the requirements of this Section, the Director shall issue a registration to the operator for such facility. If it is determined that the facility does not comply with the requirements of this Section, the application shall be denied and returned to the applicant together with a statement of the requirements with which the facility fails to comply. If an application is denied, the applicant may resubmit the application without payment of additional fees at any time within 60 days if the deficiencies noted in the original denial have been corrected. Only one such reapplication without payment of fees may be made with respect to each facility. If upon such reapplication, the registration is again denied, the applicant must file a new application accompanied by the required fee.
5. The registration shall be dated as of the first day of the month in which the registration is issued, and shall expire one year from that date.

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6. Reporting Changes. Changes in information contained in the operator's application shall be filed with the Director prior to implementation of such changes.
 7. Renewal. The Bureau shall send renewal notices to all registered operators not less than one month prior to the expiration date. A renewal form requesting any changes in the registered information shall be provided. Registrations shall be renewed upon submission of the completed renewal form and payment of the nonrefundable \$100.00 fee for each facility. Any registration not renewed within 30 days after the expiration date shall be invalid and a new application shall be submitted with a \$100.00 registration fee and approved before operations may resume.
 8. Non-assignability. A registration issued or renewed pursuant to the provisions of this Section shall not be assignable or otherwise transferable.
- G.** Payment device. Payment devices shall be placed and maintained at pay and park facilities in locations convenient and accessible to all parkers.
- H.** Pay and Park signage requirements. The operator of a pay and park facility shall post and maintain:
1. At each entrance to the facility, a sign with the words "PAY TO PARK, ALL HOURS" or when the pay and park facility has posted operating hours other than 24 hours a sign with the words "PAY TO PARK POSTED HOURS" in letters not less than 7 inches high and 4 inches wide. The signs shall be reflectorized. The center of such signs shall be no lower than 42 inches from the ground. The signs shall be visible and unobstructed by any tree, shrub, bush or any other obstacle. The signs shall be no more than 10 feet from the entrance and shall be located within 2 feet of the property line of the facility; and,
 2. When a "PAY TO PARK POSTED HOURS" sign has been placed on the facility in accordance with this section, a sign or signs at each entrance of the parking facility indicating the exact hours that the parking facility shall be operated as a pay and park facility, in letters not less than 3 inches high and 2 inches wide. The signs shall be reflectorized. The center of such signs shall be no lower than 42 inches from the ground. The signs shall be visible and unobstructed by any tree, shrub, bush or any other obstacle. The signs shall be no more than 10 feet from the entrance and shall be located within 2 feet of the property line of the facility; and,
 3. A sign or signs visible from every vehicle entrance of the facility with the words "PAY HERE" in letters not less than 10 inches high and 4 inches

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wide indicating the location of the payment device. The signs shall be reflectorized and, during hours of operation, shall be sufficiently illuminated before dawn and after dusk so that they are readily visible to a person of normal vision from every vehicle entrance; and

- 4.** At each location where payment may be made, a sign or signs stating:
 - a.** A complete list of all applicable charges for parking or storage and posted hours when a "PAY TO PARK POSTED HOURS" sign has been placed on the facility in accordance with this section;
 - b.** That proof of payment must be placed in the vehicle so that it is clearly displayed and visible through the windshield; and
 - c.** If vehicles are subject to being towed away or impounded, or are subject to penalty fees, the sign shall so state and shall include the phone number to be called for the release of vehicles. It shall be unlawful to tow away or impound any vehicle for nonpayment of parking charges unless such signs are posted and maintained.
 - d.** The signs under this Subsection shall be in letters not less than 2 inches high and 2 inches wide. The signs shall be reflectorized and, during hours of operation before dawn and after dusk, shall be sufficiently illuminated so that they are readily visible to a person of normal vision.

I. Non-pay private parking signage requirements. The operator of a non-pay private parking facility shall post and maintain:

- 1.** At least one sign shall be posted and readily visible at each entryway into the parking lot, not more than 10 feet from the public right of way or street edge. Such signs shall:
 - a.** Be posted so that the center of the sign is not more than eight (8) feet nor less than four (4) feet above the ground; and
 - b.** Be at least 18" x 24" in size; and
 - c.** State that parking is prohibited, reserved or otherwise restricted; and
 - d.** State who is authorized to park, define the limitations on parking and the hours during which parking is restricted; and

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- e. State that parking in violation of posted restrictions may result in assessment of a penalty fee up to \$32.00, or towing and storage of a vehicle at the vehicle owner's expense; and
 - f. Be maintained so as to remain unobstructed by any tree, shrub, bush, vehicle or other obstacle.
 - 2. When a private parking facility is shared by multiple business operations, parking spaces shall be marked, or signs posted, so as to indicate which spaces are reserved for each business.

J. Assessment of Penalty fees.

- 1. Nonpayment of parking fees at pay and park facilities. The parker shall pay the required parking fees upon parking the vehicle. The parker shall place the proof of payment in the vehicle so that it is clearly displayed and visible through the windshield.
 - a. The registered operator of a pay and park facility may assess and collect a penalty fee from any parker found to have parked without paying the required parking fees upon parking the vehicle and without placing the proof of payment in the vehicle so that it is clearly displayed and visible through the windshield.
 - b. It shall be unlawful to assess and collect a penalty fee at any unattended pay and park lot located within the City of Portland unless:
 - (1) The operator has complied with the requirements of this Section for registration of the location as a pay and park facility, and
 - (2) The facility is in compliance with the provisions of this Section, and
 - (3) The facility is equipped with a payment device.
- 2. Penalty assessments for unauthorized parking at non-pay private parking facilities. The operator of a non-pay private parking facility may assess and collect a penalty fee from any parker found to have parked without authorization or for a period longer than authorized.
 - a. It shall be unlawful to assess and collect a penalty fee at a non-pay private parking facility unless:

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- (1)** The operator has complied with requirements of this Section for registration of the location as a non-pay private parking facility, and
- (2)** The facility is in compliance with all provisions of this Section.

K. Notice of demand for payment of penalty fees.

- 1.** When a registered operator finds a vehicle parked at a registered pay and park facility without payment of the parking fees as required, and without the proof of payment in the vehicle placed so that it is clearly displayed and visible through the windshield, the registered operator may affix a notice of demand for payment of a penalty fee to the vehicle.
- 2.** When a vehicle is found parked at a non-pay private parking facility without authorization, the registered operator may affix to the vehicle, in a prominent location, a penalty notice demanding payment of a penalty fee.
- 3.** The notice of demand for payment in a form approved by the Director, shall be processed as follows:
 - a.** A copy shall be affixed to the vehicle,
 - b.** A record of the notice shall be retained by the registered operator for not less than one year, and
 - c.** All records of penalty fee notices shall be available to the Director upon request.
- 4.** Within 15 days of issuing the initial notice of demand for payment, the registered operator shall mail a second notice advising the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle stating the amount demanded, the method of payment, and the schedule of increases for continued non-payment. The notice shall also provide space for the recipient to inform the registered operator that the person to whom the notice was sent is not the current registered owner of the vehicle, and a statement that the vehicle owner may submit a written complaint to the Bureau of Licenses if attempts to resolve any disputes with the registered operator have been unsuccessful. If one or more of the following occur, the registered operator shall have an additional 15 days to mail the second notice:

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- a.** The vehicle has not been registered by the current owner;
 - b.** The vehicle is not registered in Oregon or Washington;
 - c.** The vehicle is rented; or
 - d.** The registered owner has moved leaving no forwarding address.
- 5.** The registered operator may add a one time administrative fee to the amount of the penalty fee to recover costs actually incurred by the registered operator in obtaining the name and address of the registered vehicle owner. The notice to the registered owner shall indicate whether an administrative fee of no more than the amount charged by the Department of Motor Vehicles for vehicle owner information has been added to the penalty fee.
- 6.** The designated penalty fee for vehicles parked on pay and park facilities without payment of parking fees, or parked on non-pay private parking facilities without authorization, shall not exceed the following amounts:
 - a.** Not more than \$16.00 if paid within 30 days of the mailing date of the notice.
 - b.** Not more than \$32.00 if paid after 30 days from the mailing date of the notice.
- 7.** On tickets issued at pay and park facilities, the registered operator may add an amount equivalent to the applicable parking fee, provided that this parking fee is paid by the operator to the owner of the facility.
- L.** Unlawful to impound vehicles. It is unlawful for any person to tow away any vehicle parked at any registered pay and park facility, or at any registered non-pay private parking facility without the permission of the parker unless:
 - 1.** The vehicle has been parked at the facility without the payment of the required parking fees or without authorization for a period in excess of 24 hours after the period for which parking fees have been paid or authorization has been given; or
 - 2.** The vehicle is parked on the facility in such a manner as to clearly impede vehicular ingress or egress to and from designated parking stalls or the facility itself, or is parked in any area which is clearly and conspicuously designated by signs or other traffic control devices as areas in which parking is restricted or forbidden; or

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3. The vehicle is parked at any of the registered operator's registered pay and park or non-pay private parking facilities, and;
 - a. Within the previous 2-year period, the vehicle was parked at any of the registered operator's registered pay and park or non-pay private parking facilities without payment of parking fees, or authorization, three times or more; and
 - b. During that time registered operator affixed and mailed the notices of demand for payment provided for in Subsections 7.24.020 J; and
 - c. Three or more penalty fees remain unpaid; and
 - d. The registered operator has mailed a notice by certificate of mailing, and a reasonable amount of time has elapsed for service of the notice, advising the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle stating that the vehicle shall be towed if the vehicle is again parked at a registered pay and park, or non-pay private parking facility. The notice shall also state the total amount due for outstanding penalty fees, the issue date and parking lot location for each outstanding penalty fee, the method of payment, the name, address and phone number of the registered operator, and that the vehicle owner may submit a written complaint to the Bureau of Licenses if attempts to resolve the complaint with the registered operator have been unsuccessful. The operator shall retain a copy of each notice for not less than one year and make such copies available upon request of the Director. The notice shall be in a form approved by the City Attorney's Office; and,
 - e. Such towing is performed in compliance with PCC 7.24.010 Towing of Vehicles from Private Property.

M. Complaint Handling Procedures.

1. The operator, while dealing with the complaints of parkers relating to notices of demand for payment of penalty, shall practice courtesy and professionalism, in accordance with the following procedures:
 - a. The registered operator shall be available, both by telephone, fax and e-mail, to the public during normal business hours to accept and respond to public complaints. The registered operator shall

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respond to telephone messages within 24 hours of receipt or the next business day, if received on a weekend or holiday.

- b.** The registered operator shall respond in writing to written complaints within 10 days.
 - c.** The registered operator's written response shall include the mailing address and phone number of the Bureau of Licenses and a statement that the parker may submit a written complaint to the Bureau of Licenses if attempts to resolve the complaint with the registered operator have been unsuccessful.
 - d.** All efforts to collect the penalty fees and related amounts shall be suspended upon a complaint being filed with the operator or the Director, pending final resolution.
 - e.** Penalty fees shall not increase from the time a complaint is received by the operator or the Director, pending final resolution.
 - f.** The registered operator shall cancel the penalty fee if the parker provides evidence within 30 days of issuance that the parking fee payment was made, or that the parker was authorized to park, or if the parker provides evidence of a valid handicapped parking permit.
 - g.** The registered operator shall notify appropriate credit agencies immediately upon canceling any penalty fee.
- 2.** The Director shall, upon receipt of a complaint, conduct an investigation.
 - a.** Upon a finding by the Director or Licenses' staff that a penalty fee is invalid, the registered operator shall immediately cancel, and cease all efforts to collect, the penalty fee and refund any payments that have been made.
 - b.** If the investigation determines that a violation of this Section has occurred, the Director shall initiate remedies provided in this Section.
 - c.** The Director shall not investigate complaints by parkers regarding the issuance of a notice of demand for payment of penalty fees filed any time after 90 days from receipt of the first mailed demand for payment.

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- N.** Maintenance of records. The operator shall keep and maintain records of all penalty fees , any transactions relating to collection of past due accounts, written warnings, requests for vehicle towing, and any other transactions or written complaints relating to penalty fees or the impoundment of vehicles for a period of at least one year.
- O.** Insurance required.

 - 1.** As a condition of registering a pay and park or non-pay private parking facility under this section, the operator shall hold the City of Portland, its officers, and employees free and harmless, defend and indemnify the City for any claims for damage to property or injury to person which may be occasioned by any work and/or services furnished or carried on under the terms of registration.
 - 2.** Registered operators shall provide and maintain commercial general liability insurance covering any and all claims for damage to property or personal injury, including death, and automobile damage which may arise from operations under the registration.

 - a.** Such insurance shall provide coverage for not less than \$200,000 for personal injury to any person, \$500,000 aggregate, and \$50,000 for each occurrence involving property damage, or in lieu of such coverage, a single limit insurance policy of not less than \$500,000 covering any number of claims arising out of any single occurrence.
 - b.** The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the registration.
 - c.** The insurance shall be without prejudice to coverage otherwise existing.
 - d.** The insurance shall name as additional insured the City and its officers, agents and employees. Notwithstanding the naming of additional insured, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts which the insurer would have been liable if only one person or interest had been named as insured.

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- e. The coverage must apply as to claims between insured on the policy.
- f. The insurance shall provide that the insurance shall not terminate or be canceled without 30 days written notice first being given to the City Auditor.
- g. The adequacy of the insurance shall be subject to the approval of the City Attorney.
- h. Failure to maintain liability insurance shall be cause for immediate revocation of the registration by the City.

P. Prohibitions. No operator shall:

- 1. Charge any fee not approved by the Director or in excess of the maximum fees established by the Director.
- 2. Require any vehicle owner/owner's agent to make any statement or sign any document promising not to dispute the validity of a penalty fee or relieving the operator from responsibility for the condition of the vehicle.
- 3. Solicit business by means of payment of a gratuity, commission or other consideration to the property owner, manager or employee of a pay and park or non-pay private parking facility.
- 4. Park within 1,000 feet of a registered facility for the purpose of covert observation in order to assess penalty fees. Neither shall a registered operator station any observer in a pay and park or non-pay private parking facility for the purpose of monitoring and issuing tickets unless the monitor provides a verbal warning to parkers leaving their cars or unless signs are posted clearly warning that the lot has on-site monitoring and the hours during which monitoring occurs.
- 5. Attach a mechanical boot or any other immobilization device to any vehicle parked on private property or public right-of-way for the purpose of collecting a fee for the release of the vehicle.

Q. Remedies. Upon the failure of any person to comply with any of the requirements of this Section, the Director may exercise the following authority and may apply one or more of the following remedies:

- 1. Suspension or revocation. The Director may suspend a registration of any pay and park or non-pay private parking facility if investigation reveals

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any substantial violation of the requirements of this Section. A substantial violation is a violation that has an impact on the public that informal compliance methods have failed to resolve. Suspension of registration may be for a period of up to 14 calendar days. The suspension shall be effective from the registered operator's receipt of written notice of suspension. If the violation is not corrected within the 14 calendar day period, then the Director may revoke the registration. The revocation shall be immediately effective upon the receipt of written notice by the registered operator.

- a. If a pay and park or non-pay private parking facility registration has been revoked, the registered operator may not re-register the location for a period of two years from the date of the revocation.
 2. Civil Penalty. If investigation reveals any substantial violation of the requirements imposed by this Section, the Director may impose a civil penalty of up to \$500 for each such violation.
 3. Public nuisance. Any pay and park or non-pay private parking facility maintained in violation of this Section is hereby declared to be a public nuisance. The Director may request that the City Attorney bring an action or suit to abate such nuisance in any court with jurisdiction to hear such action or suit.
- R. Appeals.** Any registered operator aggrieved by a determination of the Director may appeal such determination to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10 of this Code.

7.24.030 Locking Parked Cars.

It is unlawful for the operator or an employee of a public parking lot to close and leave the lot without first removing the keys from any vehicle remaining upon the lot. It is unlawful for the operator or employee to close and leave the lot prior to the posted time of closing without locking any vehicle remaining on the lot. If no closing time is posted it shall be unlawful for the operator or an employee to close and leave the lot without locking any vehicle remaining on the lot. The operator of any lot where the operator or employee removes keys to any location other than the lot itself shall post and maintain a sign on the premises stating where and during what hours keys may be obtained when the lot is not attended. The sign shall be placed in a location meeting the requirements of signs giving notice of impoundment fees required by Section 7.24.010 F. of this Code.

CHAPTER 7.26

REGULATION OF PAYDAY LENDING

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

Sections:

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

7.26.010 Purpose.

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

7.26.020 Definitions.

As used in this Chapter unless the context requires otherwise:

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

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- E.** “Payday Loan” means a payday loan as defined by state law.
- F.** “Principal” means the original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

7.26.030 Permits.

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

7.26.040 Administrative Authority.

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

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Bureau and the Office of the City Auditor in compliance with PCC 1.07.030. Copies of all current rules shall be available to the public upon request.

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

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

7.26.050 Payment of Principal Prior to Payday Loan Renewal.

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

7.26.060 Cancellation of Payday Loan.

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

7.26.070 Payment Plan for a Payday Loan.

- A. A Payday Lender and a Borrower may agree to a payment plan for a Payday Loan at any time.

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- B.** A Payday Lender shall disclose to each Borrower that a payment plan described in this section is available to the Borrower after the maximum amount of renewals allowed by state law. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.
- C.** After a Payday Loan has been renewed to the maximum amount allowed by state law, and prior to default on the Payday Loan, a Payday Lender shall allow a Borrower to convert the Borrower's Payday Loan into a payment plan. Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.
- D.** The Payday Lender shall not assess any fee, interest charge or other charge to the Borrower as a result of converting the Payday Loan into a payment plan.
- E.** The payment plan shall provide for the payment of the total of payments due on the Payday Loan over a period of no fewer than 60 days in three or more payments. The Borrower may pay the total of payments due on the payment plan at any time. The Payday Lender may not assess any penalty, fee or other charge to the Borrower for early payment on the payment plan.
- F.** A Payday Lender's violation of the terms of a payment plan entered into with a Borrower under this section constitutes a violation of this Chapter. If a Payday Lender enters into a payment plan with a Borrower through a third party that is representing the Borrower, the Payday Lender's failure to comply with the terms of that payment plan constitutes a violation of this Chapter.

7.26.080 Remedies.

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

7.26.090 Appeals.

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

7.26.100 Complaints.

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

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

7.26.110 Severability.

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

TITLE 17

PUBLIC IMPROVEMENTS

Chapter 17.04 DEFINITIONS

17.04.010	Person.
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17.04.025	Responsible Official.
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Chapter 17.08 LOCAL IMPROVEMENT PROCEDURE

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17.08.080	Changes to Scope or Cost of Improvements and Notice to Proceed.
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Chapter 17.12 ASSESSMENTS

17.12.010	Lien Docket and General Assessment Procedure.
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SEWER USER CHARGES

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

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17.36.010 Definitions.

For the purpose of this Chapter, the following definitions shall apply:

- A.** "Available Sewer" is a collector, trunk, or other major public sanitary sewer located in a dedicated street or easement adjacent to, or within a property, and designed or intended to provide direct service to the property. For the purposes of this Chapter, a sewer shall not be considered available to a property if an extension of the public sewer is required before a branch can be constructed to the property.

TITLE 17
PUBLIC IMPROVEMENTS

- B.** "Biochemical Oxygen Demand (BOD)" is the quantity of oxygen utilized in the biochemical oxidation of organic matter over a period of five days at a temperature of 20 Celsius (as approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto, as published in the Federal Register). This definition applies to the phrase and its abbreviation.
- C.** "Branch" is a public sewer service lateral as defined in Chapter 17.32 of this Code.
- D.** "Branch Charge" is a connection charge that reimburses the City for the costs of designing and constructing public sewer service laterals.
- E.** "Brownfield" is real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.
- F.** "Bureau" is the Bureau of Environmental Services unless otherwise stated in this Chapter.
- G.** "Composite sample" is a series of individual discrete samples taken at selected intervals based on either an increment of flow or time. The samples are mixed together to approximate the average composition of discharge to the public sewer system. A composite for one day must consist of a pool of samples, collected over the period of expected discharge during the production day. Where special conditions warrant, the Director may designate an alternative procedure that is acceptable.
- H.** "Connection Charge" is a charge that the City collects at/or prior to the time a property connects to the public sewer system. Connection charges may include a line charge, branch charge, sanitary sewer system development charge and stormwater system development charge. A property may be subject to one or more of these charges depending on the connections made and the means used to provide public sewer and stormwater management services to the property.
- I.** "Director" is the Director of the Bureau of Environmental Services or the Director's designated representative.
- J.** "Dwelling unit" is any housing unit with sanitary and kitchen facilities either designed or used to accommodate one or more residents, including detached residences, multiple housing units, floating homes, mobile homes and mobile home spaces. This does not include commercial (transient) housing units such as hotel and motel units; overnight trailer or recreational vehicle spaces; or housing units in institutional care facilities. A single dwelling unit shall be any dwelling

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unit, as defined above, in a building containing no other dwelling units. This includes units in planned developments, and care facilities classed as a single-family unit by the City.

- K.** “Extra Strength Charge” is the additional charge to wastewater dischargers who have constituent discharges at concentrations above levels normally expected in domestic wastewater, as determined by this Title and general ordinance.
- L.** “Frontage” is the length of public right-of-way adjacent to a property, measured in feet.
- M.** “Groundwater” is subsurface water that occurs in soils and geological formations that are fully saturated. Groundwater fluctuates seasonally and includes perched groundwater. Groundwater related discharges include, but are not limited to, subsurface water from site remediation and investigations, well development, Brownfield development, discharges from footing and foundation drains, rainwater infiltration into excavations and subsurface water associated with construction or property management dewatering activities.
- N.** “Impervious Area” is the area of a property which does not allow rainwater to percolate naturally into the ground. Examples include a roof and paved area, such as a driveway, parking area or walkway. The City classifies as impervious areas for billing purposes set forth in this Chapter areas of property that are covered by porous pavement, eco-roofs, rain gardens or other types of impervious area replacement techniques used for stormwater management. Impervious areas for billing purposes do not include public rights-of-way, outdoor recreation areas that are available to the general public without condition or restriction, and areas covered by compacted soils and compacted gravels.
- O.** “ITE Manual” is the manual entitled “An Institute of Transportation Engineers Informational Report – Trip Generation”, used by the City to determine transportation system development charges.
- P.** “Line Charge” is a connection charge that reimburses the City for the costs of designing and constructing sanitary sewer lines that serve connecting properties.
- Q.** "Multiple dwelling unit" is any dwelling unit, as defined above, in a building containing more than one dwelling unit. This includes the dwelling units in commercial buildings containing more than one dwelling unit, houseboats, mobile homes and mobile home spaces where more than one unit exists.
- R.** “Net New Impervious Area” is the greater of zero and the difference between existing impervious area on a property, and any increase in impervious area that results from a proposed use(s) of the property.

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- S.** “Net New Vehicular Trips” is the greater of zero and the difference between the vehicular trips generated by the existing use of a property, and any increased number of the vehicular trips generated from a proposed use(s) of the property.
- T.** "Perched Groundwater" is a zone of saturation in a formation that is discontinuous from the water table and the unsaturated zones surrounding this formation. The formation exists as a discrete saturated zone that may be ephemeral (in direct response to precipitation in the immediate vicinity) or recharged by percolation from nearby surface water or other perched water zones.
- U.** “Public Sewer System” is defined as provided in Chapter 17.32 of this Code.
- V.** “Ratepayer” is a person who has the right to possession of a property, and who causes or permits the discharge of sanitary sewage from property in their possession into the public sewer system, or whose use of property directly or indirectly benefits from stormwater management services provided by the City.
- W.** “Reimbursable City Stormwater Facilities” are stormwater management facilities that are financed by the City.
- X.** "Rolling Average" is the average of the 10 most recent monthly averages of valid city- and/or self-monitoring events for the purpose of calculating an extra-strength sewage charge rate unless another period is approved by the Director.
- Y.** “Sanitary Sewage” includes, but is not limited to, domestic wastewater, industrial/commercial process wastewater or contaminated stormwater which is discharged to the public sewer system by permit or approval of the Director.
- Z.** “Sanitary System Development Charge” is a connection charge for new or increased demand of the public sewer system. The charge reimburses the City for an equitable portion of the costs of major sewer facilities, such as wastewater treatment facilities, pump stations and interceptor sewers.
- AA.** “Slugload” is any discharge that is non-routine or episodic in nature, such as accidental spills, non-customary batch discharges or other non-standard discharges.
- BB.** “Stormwater Management Facilities” include, but are not limited to, facilities that collect, convey, detain, retain, treat or dispose of stormwater runoff.
- CC.** “Stormwater Management Services Rate” is the rate used for calculating user charges for stormwater management services. The rate may also be referred to as

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the “impervious area” rate or “drainage service charge” or the “drainage/stormwater management user service charge”.

- DD.** “Stormwater Management Services” are services and actions required to collect, convey, detain, retain, treat or dispose of stormwater runoff, such as services that manage stormwater runoff from public streets, mitigate flooding, prevent erosion, improve water quality of stormwater runoff, collect and convey stormwater runoff from private properties when runoff exceeds the capacity of private facilities to manage stormwater onsite, mitigate impacts to natural habitats caused by stormwater runoff, and protect properties and natural habitats from hazardous soils and materials that are discharged from private properties and public rights-of-way.
- EE.** “Stormwater System Development Charge” is a connection charge that reimburses the City for the design and construction of stormwater management facilities. The charge ensures that new and expanded uses of property pay an equitable portion of the costs of public stormwater management facilities such as collection and conveyance facilities, detention and disposal facilities, and water pollution reduction facilities.
- FF.** “Temporary Connection”. A connection to the sanitary sewer system is deemed temporary if the duration of the connection is less than three years and connection and disconnection occur only once. However, for purposes of this definition and determining the applicability of sewer system connection charges, connections to the sanitary sewer system made for the purpose of servicing an environmental remediation activity of less than three years will not be considered a temporary connection unless approved by the Director. In granting a temporary connection the Director shall, at a minimum, consider the nature of the remediation site and type of City sewer(s) available for connection.
- GG.** “Temporary Structure”. A structure is deemed temporary if it is a separate and distinct entity from all other structures and it is created and removed in its entirety, including impervious area associated with the structure, within a continuous period of three years or less.
- HH.** “Total Suspended Solids (TSS)” is the total suspended matter that either floats on the surface or is in suspension in water or wastewater and that is removable by laboratory filtering (as approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto, as published in the Federal Register). This definition applies to the phrase and its abbreviation.

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- II.** “Transportation SDC Study” is the methodology report entitled “Update of Transportation System Development Charges Rate Study”, most recently adopted by Council.
- JJ.** “User Charge” is a charge paid by a ratepayer for sanitary or stormwater management services.
- KK.** “Willamette River/Portland Harbor Superfund” is a program to remove pesticides and petroleum from sediments along a nine-mile segment of the Lower Willamette River. The City’s portion of the program costs are paid from dedicated user charges that bear the name of the program.

17.36.020 Administrative Rules, Procedures and Forms.

- A.** Upon the recommendation of the Director, the Bureau may adopt rules, procedures, and forms pertaining to matters within the scope of this Chapter.
- B.** Any rule adopted pursuant to this section shall require a public review process. Not less than thirty, nor more than forty-five, days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full text of the proposed rules may be obtained.
- C.** During the public review, the Director hears testimony or receives written comment concerning the proposed rules. The Director reviews the Bureau recommendation; taking into consideration the comments received during the public review process and either adopts, modifies or rejects the proposal. If a substantial modification is made, additional public review will be conducted, but no additional notice is required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules are effective upon adoption by the Director and are filed in the office of the Director.
- D.** Notwithstanding paragraphs B. and C. of this Section, an interim rule may be adopted without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph is effective for a period of not longer than 180 days.

17.36.030 Appeal.

If a property owner or owner’s agent does not agree that the calculation of charges was administered as set forth in this Section, he or she may appeal to the Director for an administrative review. The owner or owner’s agent must file a written appeal to the Director prior to payment or within 10 days of payment of the charge. Upon receipt of the

statement, the Bureau schedules the matter for review by the Director. The owner or owner's agent has an opportunity to present evidence in the course of the review. The Bureau provides the owner or owner's agent a decision in writing within 10 days of the receipt of appeal request. A person aggrieved by any decision or determination of the administrative review process may appeal the decision to the Code Hearings Officer as provided in Chapter 22.10 of the Code of the City. A request for an appeal hearing must be filed within 10 days after the date of the written decision of the Director. The Code Hearings Officer may waive this requirement for good cause shown. The request for an appeal hearing must be in writing and must contain a copy the decision appealed from and a statement of grounds upon which it is contended that the decision is invalid, unauthorized, or otherwise improper, together with such other information as the Code Hearings Officer may by rule require. The Code Hearings Officer may specify and provide hearing request forms to be used by persons requesting hearings.

17.36.040 Sewer System Connection Charges.

The following charges are for connection and use of the public sewer and stormwater management services under City control, from properties either inside or outside the City. These are calculated based on rates established, annually, by general ordinance, and are collected upon issuance of a building permit, or where a building permit is not required, upon issuance of a sewer connection permit.

A. Sewer System Connection Charges.

1. Sanitary System Development Charge

- a.** The methodology for calculating the charge is set forth in the document Sanitary and Stormwater System Development Charge Methodology, adopted annually by general ordinance.
- b.** A person desiring to connect a building property to a sanitary or combined sewer, or to increase the sewer usage by alteration, expansion, improvement, or conversion of a building already connected to the sewer, or to increase flow to a sanitary or combined sewer by causing contaminated stormwater or groundwater to enter the sewer, must pay sanitary system development charges.
- c.** The charge is calculated based on the number of Equivalent Dwelling Units (EDUs). EDUs for nonresidential uses will be calculated from Plumbing Fixture Units (PFUs), taken from the Oregon Plumbing Specialty Code in effect at the time of the permit application. EDUs for groundwater or other permitted discharges to sanitary or combined sewer are calculated based on estimated

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discharge volume, and are subject to review as described in this Chapter.

- d. Industrial wastewater. Persons with industrial wastewater discharges are subject to review of sewer usage within two years of occupancy. EDUs are calculated from the highest six-month average of metered usage over that period. The user of record is responsible for EDUs in excess of those paid at the issuance of the permit.
- e. Credit for prior sewer connection. For buildings on sites that were previously connected to the sewer system or that had buildings previously connected to a sanitary sewer, full credit for sanitary system development charges is allowed for each equivalent dwelling unit purchased under this Subsection that existed prior to demolition or disconnection.
- f. Credit for prior sewer user charge payments. When a person desires to connect a building to a sanitary sewer, where sanitary sewer user charges have been paid for the building for several years, a credit of \$21 per equivalent dwelling unit for each year of such prior user charge payments from 1949 to 1991 is applied toward the sanitary system development charge. No credit is allowed for buildings that were demolished or disconnected prior to July 1, 1971.
- g. Temporary structures and temporary connections are not subject to the sanitary system development charge. However sanitary system development charges, including penalties and interest charges, become due and payable from structures or users that originally were exempted from sanitary system development charges as a temporary structures or temporary connections, but are not removed within three years as provided in the definition of temporary structures and temporary connections. Temporary structures and temporary connections are not exempt from paying sewer user fees, including extra strength charges.
- h. Prepayment. A person may elect to pre-pay sanitary system development charges by providing a letter of intent to the Bureau of Environmental Services, which includes the parcel description and address if applicable, and the estimated number of EDUs (equivalent dwelling units) to be paid. The Bureau may grant a refund at any time for excess EDU's paid (refunds will be based on rates in effect at the time of prepayment and without interest), and

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charge for any outstanding EDU's (calculated by the Bureau of Environmental Services) at the time of the building permit, at the rate in effect at that time. After September 15, 1988, the Bureau will not accept prepayment for a connection to be performed more than five years from the date of prepayment.

2. Line Charge.

a. The Bureau collects a line charge prior to the issuance of a permit to connect a property to the public sewer system.

b. The Bureau collects the charge when the property to be connected has not been assessed for direct service or its equivalent.

c. The Bureau calculates the line charge as follows:

(1) Residential Property. The charge is based on the square footage of the property. For properties zoned residential and used predominately for residential purposes, the square footage used for calculating the line charge is limited to the lot area within 100 feet of rights of way or easement where sewer has been constructed or is planned for sewer construction. Such street or easement line is considered as continuing 100 feet beyond the end of the main line sewer or beyond where the sewer turns away from the property. The minimum line charge is based on a minimum assumed lot size of 1,200 square feet. When an adjacent, developed lot, as defined in Title 33 of this Code, is under same ownership and used in conjunction with a neighboring, developed lot that is connecting to the sewer, the adjacent lot is charged a line charge for its frontage as described above. This condition includes but is not limited to improved parking lots, and lots with garages or landscaping.

(2) Non-Residential Property. For non-residential property, the square footage used for calculating the line charge is limited to the lot area within 300 feet of rights of way or easement where sewer has been constructed or is planned for sewer construction. Such street or easement line is considered as continuing 300 feet beyond the end of the main line sewer or beyond where the sewer turns away from the property. The minimum line charge is based on a minimum lot size of 3,600 square feet.

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- d. When a sewer is constructed that can not provide gravity service, the line charge is reduced by 50% if the property has gravity service to the first floor only and must install a pump for the basement and 75% of the line charge is reduced if no gravity service is available for the first floor and the property must install a pump. The adjustment may not exceed the costs associated with the installation of a pump system. The ratepayer may appeal this determination to the Director if the pump costs exceed the line charge adjustment.
3. Branch charge.
 - a. The Bureau collects a branch charge prior to the issuance of a permit to connect a property to the public sewer system.
 - b. The Bureau collects the charge for branches that the City has extended from the public sewer during or after its construction, and the property has not been assessed for the branch or its equivalent.
 - c. The Bureau collects additional charges for additional branches that have been requested by the user representative at the time of sewer design or construction but not used at the time of initial connection. The charges are collected prior to subsequent connection to the public sewer system.
4. Bond in lieu of payment. When the equivalent dwelling units for a proposed connection (or change) cannot be determined in advance, or when the user or applicant does not agree with the Director's determination, but only when the occupancy is not adequately defined by the City, the Director may accept a cash or surety bond in an amount determined by him or her, and posted by the owner in lieu of immediate payment of the charge. A reasonable time after the connection (or change) is made, but not more than 2-1/2 years, the Director, using water consumption records or other evidence, determines the number of equivalent dwelling units and the amount of the system development charges payable. Upon notice, the user must pay the system development charges required. If the user does not pay the charges within 60 days, the bond is forfeited upon certificate by the Director, and approval by the Commissioner-in-Charge.
5. Sampling manhole charge. When a property is subject to an extra strength charge, as described in this Chapter of the Code and as determined by the Director, at the user's request the City may install a sampling manhole on

the branch, providing the user agrees to pay all direct and indirect costs of installing the manhole.

6. Deferral of connection charges. Users who qualify to defer sewer assessment charges but who want to connect to the system can defer payment of connection charges until such date as the Director may specify as authorized by ordinance. The charge in effect at the time of connection is applied at time of payment. Deferred connection charges are delinquent when not paid after a period of 90 days from the date due and bear interest and penalties as set forth in this Chapter. Users may convert the deferral to an installment payment loan. The Director may establish rules, procedures and forms to govern the administration of the deferral program.

B. Stormwater System Development Charge.

1. The stormwater system development charge consists of two parts: an on-site charge, reflecting use of public facilities handling stormwater flows from individual properties; and an off-site charge, reflecting use of system facilities handling stormwater flows from rights of way. The following charges are calculated based on rates established, annually, by general ordinance:
 - a. The on-site charge is calculated by multiplying the net new impervious area by a rate per thousand square feet of impervious area. In the case of groundwater flows directed into stormwater facilities, the charge is calculated based on the amount of impervious area necessary to produce an equivalent flow given average rainfall.
 - b. The off-site charge is calculated in two parts: local access, and use of arterial streets.
 - (1) The local access portion of the off-site charge is calculated by multiplying the length of the property's frontage by a frontage rate per foot. For properties on which there is existing development, and for which a stormwater system development charge has previously been paid, the local access portion is assumed to have been paid.
 - (2) The arterials portion of the off-site charge is calculated by multiplying net new vehicular trips by a rate per vehicular trip. Vehicular trips for a particular development are determined by the Transportation SDC Study, the ITE Manual, or an alternative study acceptable to the Office of

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Transportation for purposes of the transportation system development charge.

- 2.** Credits. Credits are granted against the on-site portion of the stormwater system development charge in one of the following two cases:
 - a.** Credits of up to 100% of the on-site portion of the stormwater system development charge are granted for areas draining, either in whole or in part, directly to the Willamette or Columbia Rivers, or to the Columbia Slough, provided that the discharge for which the credit is sought does not pass through reimbursable City stormwater facilities, and that the discharge meets all applicable water quality standards. Those applying for this credit must provide adequate documentation to demonstrate that the stormwater for which the credit is being sought flows from the site to those receiving bodies without passing through reimbursable City stormwater facilities. Development using stormwater facilities built under a public works permit, which convey stormwater runoff directly to one of the receiving bodies listed above without passing through other City stormwater facilities, are eligible for the up to 100% credit against the onsite charge.
 - b.** A 100% credit is granted for areas draining to facilities providing effective on-site retention for a 100 year storm event with a safety factor of two, defined as a rainfall intensity of 8.28" per hour per square foot of impervious area. Those applying for this credit must provide adequate documentation to demonstrate this additional retention capacity, including testing of infiltration facilities, and that on-site flows are directed to these facilities.
 - c.** No credits are granted against the off-site portion of the stormwater system development charge.
- 3.** The stormwater system development charge is collected upon issuance of a building or connection permit. If desired, the applicant may pay these charges directly to the Bureau of Environmental Services after applying for, but before receiving a building permit. When the new building takes the place of a structure or impervious area that has existed in the last seven years, or does not add more than 500 square feet, or is a temporary structure, no development charge will apply. However, development charges, including penalties and interest charges, become due and payable from structures that originally were exempted from development charges as a temporary structure but are not removed within three years as

provided in the definition of temporary structures. Temporary structures are not exempt from paying draining service charges.

17.36.050 Partial and Full Exemptions of Sanitary and Stormwater System Development Charges for Affordable Housing Developments.

- A.** The purpose of this section is to reduce the costs of developing permanent affordable housing by waiving sanitary and stormwater system development charges for qualified affordable housing developments. This section advances a Council-recognized public policy goal to provide for a diversity of housing types to meet the needs of the citizens of the City.
- B.** The City will exempt qualified affordable housing developments from paying all or part of sanitary and stormwater system development charges required by this Chapter. The Applicant must apply for exemptions under this Section prior to the date the City issues the first occupancy permit on the new development. The City may reject applications received after the date of the first occupancy permit. Where new development consists of only part of one or more of the uses described in this section, only that portion of the development that qualifies under this Section are eligible for an exemption. The balance of the new development that does not qualify for any exemption under this Section is subject to the full sanitary and stormwater system development charges. The Applicant has the burden to prove entitlement to exemptions so requested.
- C.** To obtain the exemption, the applicant must present to the Bureau of Environmental Services, at the time of Application, documentation from Portland Development Commission that the development qualifies for the exemption per Chapter 30.01 of this Code.
- D.** The City shall calculate exemptions in the same manner as other rented and owner-occupied properties. Non-residential properties or the non-residential portion of mixed-use developments are not eligible for exemptions provided by this Section.
- E.** The City shall require the recording of real property covenants in the deed records for properties receiving exemptions under this Section in order to ensure compliance, or to provide remedies for failure to restrict units, or both. Deed restrictions may be used by the Portland Development Commission in order to restrict sale prices and rents charged for exempt units, or to provide remedies for failure to restrict units, or both.
- F.** Applicants shall meet the following affordable housing qualifications to be exempt from paying all or a portion of sanitary and stormwater system development charges:

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1. For purposes of this Section, "affordable" for rental housing means that the rent and expenses associated with occupancy such as utilities or fees, does not exceed 30% of the gross household income at the level of the rent restrictions. "Affordable" for ownership units means a purchase price for which the sum of debt service and housing expenses including an allowance for utilities and other required ownership fees, when compared to the annual gross income for a family at or below 100% of area median family income, adjusted for family size, does not preclude conventional mortgage financing.
2. Rental Units: The units receiving an exemption shall be affordable to households earning 60% or less of area median family income at time of occupancy and shall be leased, rented or made available on a continuous basis to persons or households whose incomes are 60% or less of area median family income, as adjusted by household size and as determined by the U.S. Department of Housing and Urban Development for the Portland Metropolitan Area. Such units shall remain affordable for a period of 60 years.
3. Owner-Occupied Units. The units receiving an exemption shall be affordable to households earning at or below 100% of area median income and shall be sold to persons or households whose incomes are at or below 100% of area median family income, as adjusted by family size and as determined by the U.S. Department of Housing and Urban Development for the Portland Metropolitan Area.
4. Per Section 30.01.040, the Bureau of Housing and Community Development and Portland Development Commission are responsible for enforcing property covenants and other agreements with applicants that are conditions of receiving exemptions provided by this Section.
 - a. In addition specific covenants and agreements required by the City as a condition of approval of an exemption application, qualified rental developments must adhere to the 60-year affordability requirements for rental housing developments, including qualifying requirements related to rents and occupancy.
 - b. In addition to specific covenants and agreements required by the City as a condition of approval of an exemption application, a qualifying ownership project must comply with applicable recapture or retention covenants.

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- c. In the event that an applicant violates the covenants, agreements or other requirements that were established by the City as a condition of approval of an exemption application, the City shall terminate the exemption and make due and payable all previously exempt portions of sanitary and stormwater system development charges at rates in effect at the time the City determines the violation.
- d. If the exemption terminates within two years of initial building permit issuance, additional charges will be due and owing. These charges include a processing fee of \$120 and carrying charges of 12% per year (1% per month), added to the sanitary and stormwater system development charges based on rates in effect at the time, and charged back to the date the exemption was granted. The City may collect reinstated sanitary and stormwater system development charges, processing fees, carrying charges and the actual costs of collections by recording a property lien pursuant to Title 22.

17.36.060 Agreements with Governmental Agencies for Sanitary Sewer and Stormwater Management Services.

The Director is authorized to enter into agreements for and on behalf of the City with any special service district or governmental agency authorized to contract on behalf of property outside the City but within the district or agency. The agreements may provide for payments to the City by the districts or agency, in lieu of payments by individual property owners or occupants. Bonds or other securities may be waived by the Director in agreements provided for in this Section. All other provisions of this Title applicable to sewer system connection charges, user charges or to agreements with individual property owners remain in full force and effect.

17.36.070 User Charges.

Sewer user service charges, as authorized by the Charter, are established and made effective as follows:

- A. Sanitary Sewer Services. Except as otherwise provided by this Title, the City calculates and collects user charges for sanitary sewer services from ratepayers who cause or permit the discharge of sanitary sewage from a property in their possession into the public sewer system. The charges begin upon connection to the public sewer system. Charges for sanitary sewer services may include sanitary sewer volume charges, account service charges and penalties for non-payment or late-payment of sewer charges and other charges as provided for in this Chapter. The City calculates the following charges based on rates established, annually, by general ordinance:

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1. Dwelling units. Charges for dwelling units are based on the volume of sewage discharge to the sanitary sewer system. The Bureau may elect to use the water meter consumption as the calculation for the sanitary sewage discharge. To avoid including irrigation water usage in this calculation, the Bureau will establish a procedure that allows for irrigation credit. When a water meter reading is not available, a sanitary sewer discharge estimate shall be made based on the ratepayer class of characteristics as determined by the Director.
 2. Commercial, industrial and all occupancies other than residential. The City calculates charges for commercial, industrial and all occupancies other than residential based on the amount of incoming water volume as measured by the City water meter or information from the water district serving the property or by a Bureau approved meter that measures actual discharge volume. Discharge meters must meet the current standards for such meters as described by the Director. To establish reduced charges or credit for water not subject to sewer charges, ratepayers must comply with the requirements of this Chapter. If a sewer customer does not have a City meter or water district meter measuring the supply of water to the property, the private water supply must be metered in accordance with this Chapter. In areas served by separated storm and sanitary sewer systems, the City may accept the discharge of contaminated stormwater into the sanitary sewer. The discharge volumes will be based upon the impervious area producing the contaminated stormwater and the average rainfall or a discharge meter. The discharge will be charged based on sanitary sewer volume rates.
 3. Combined dwelling units and other. Where dwelling units and other occupancies are combined on the same water supply, the City calculates charges for sanitary sewer service in the same manner as those for commercial, industrial and all occupancies other than residential.
- B. Stormwater Management Services.** Except as otherwise provided by this Title, the City calculates and collects user charges for stormwater management services based on rates established, annually by general ordinance. Ratepayers who receive a direct or indirect benefit from City stormwater management services are subject to the user charge. The ratepayer identified on the City utility billing account is assumed to be the user of stormwater management services and responsible for the user charge. If the property is not subject to other City utility charges, the Director will determine the ratepayer responsible for the user charge.
1. Billing Components. The user charge consists of the following components:

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- a. Stormwater On-Site. The user charge rate for the on-site component is 35% of the stormwater management services rate.
 - b. Stormwater Off-Site. The user charge rate for the off-site component is 65% of the stormwater management services rate.
 2. Basis for charge. User charges are calculated based on the user's proportionate share of stormwater management services. For administrative purposes, the user's proportionate share is assumed to be perfectly correlated with the amount of impervious area on the user's site. Unless the Bureau measures actual site characteristics, impervious area is assumed to be the average impervious area for the user's class as shown in the most recent rate study.
 3. Dwelling units. The City uses the following class averages of impervious areas for calculating user charges for dwelling units located on a single property or tax lot:
 - a. One and Two Dwelling Units - 2,400 square feet
 - b. Three Dwelling Units - 3,000 square feet
 - c. Four Dwelling Units - 4,000 square feet
 - d. Five or More Dwelling Units – Measured impervious area
 4. Properties other than dwelling units. The City calculates the ratepayer's proportionate share of stormwater drainage system services based on the amount of impervious area on the site.
 5. Drainage Districts. The City calculates and collects payments for stormwater management services from Multnomah Drainage District No. 1, Peninsula Drainage District No. 1, and Peninsula Drainage District No. 2 under an Intergovernmental Agreement. The district charges are made in lieu of user charges for properties located within the boundaries of the districts.
- C. Willamette River/Portland Harbor Superfund. The City calculates and collects user charges for the Willamette River/Portland Harbor Superfund Program based on rates established, annually, by general ordinance. Ratepayers who receive a direct or indirect benefit from the public sewer system and City stormwater management services are subject to the user charge. The ratepayer identified on the City utility billing account is assumed to be the beneficiary of the program and

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responsible for the user charge. If the property is not subject to other City utility charges, the Director determines the ratepayer responsible for the user charge.

- 1.** **Billing Components.** The user charge appears as a single item on the City utility bill, and is the sum of two rate calculations:
 - a.** **Sanitary Volume.** This portion of the user charge is calculated in the same manner as the user charge for sanitary sewer services, based on a Willamette River/Portland Harbor Superfund Sanitary Volume rate.
 - b.** **Impervious Area.** This portion of the user charge is calculated in the same manner as the user charge for stormwater management services, based a Willamette River/Portland Harbor Superfund Impervious Area rate.

D. **Service outside the City:**

- 1.** The City charges for the use of sanitary sewer and stormwater management services from properties outside the City based on rates established, annually, by general ordinance.
- 2.** Business, industrial, commercial, and all other non-residential services outside the City:
 - a.** The Director may require, and is authorized to enter into agreements for and on behalf of the City, permitting connection and providing sanitary sewer or stormwater management services to commercial and industrial properties outside the City when he/she finds such service feasible and appropriate. The Director may conduct such investigations as deemed necessary in connection with the application of any non-residential occupancy to connect with the public sewer system or stormwater management facility. The Director must approve the design and location of all sewers or stormwater management facilities prior to their connection. The City requires street opening permits from the appropriate authority in the jurisdiction wherein the sanitary sewer or stormwater management facility is located.
 - b.** The Director may require the owner, tenant or lease holder to post a cash or surety bond in the sum of not over \$4,000, as one of the conditions for entering into an agreement allowing connection from commercial or industrial property outside the City. The bond shall be deposited with the City Treasurer and shall be declared

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forfeited upon certificate by the Director, approved by the Commissioner-in-Charge, in case of delinquency of more than 30 days in the payment of the sewer user service charge.

3. Determination of which property is outside the City. The Director determines whether any residential or business, industrial, commercial, institutional or other property is inside or outside of the City limits. For purposes of this Section, the property is outside of the City limits where 66.7 percent or more of the assessed valuation of the property is recorded in the records of the County Assessor as lying beyond the City limits.

17.36.080 Special Provisions.

- A. Establishing reduced charges or credit for water not subject to sewer user charges. Prior to any use of water that may be subject to reduced or special charges, and prior to installation of any meter for the purpose of obtaining reduced sewer charges, the owner must submit a written credit request for approval by the Director. A request for such credit must include a mechanical plan showing the proposed meter location, access route to the meter, the water supply or source, the cooling or other water using equipment, and the discharge point. At no time may a reduced charge or credit be given retroactively (prior to the date of approval); no reduced sewer rate or charge may be given until the Director has approved the request and the meter location plans and installation. Any meter or method, used for calculation of a reduced rate or credit, is subject to the administrative or special meter charge for each such meter or method as established, annually, by general ordinance. All meters used to obtain a reduced sewer user charge must conform to the provisions of this Chapter.
 1. Clean water to sanitary or combined sewer charges. The Bureau calculates these charges based on the commercial sewer volume rate when uncontaminated groundwater or other uncontaminated water, such as that used for refrigerating or cooling purposes or condensed from steam and put to no other use, is discharged to a public sanitary or combined sewer under City control.
 2. Clean water to storm only charges. The Bureau calculates these charges based on the commercial clean water to storm sewer volume rate when uncontaminated groundwater or other uncontaminated water, such as that used for refrigerating or cooling purposes or condensed from steam and put to no other use, is discharged to a public separated storm sewer and not connected to a combined sanitary system under City control.
 3. Discharges from publicly owned drinking fountains. The Bureau calculates these charges based on the drinking fountain volume rate and

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the volume of water that is discharged from publicly owned drinking fountains to a sanitary or combined sewer. Discharges from publicly owned drinking fountains to a public separated storm sewer are charged a volume rate for commercial clean water discharged to a storm sewer.

4. Water not subject to sewer charges. The Bureau may exempt from user charges water that is used in a manufactured product such as ice, canned goods or beverages; or for water lost by evaporation or used in irrigation on a written request for such credit. After approval by the Director, the owner or other person in control of the premises, must install meters or provide other means of determining the quantity of water so used to the satisfaction of the Bureau.
5. When clean water discharged to a public sewer system is not from a separate metered supply, the owner or other person in control of the premises, after approval by the Director, must install meters or provide other means of determining the quantity of water so used to the satisfaction of the Bureau.

B. Conditions for revoking reduced charges or credits.

1. Failure to repair a defective meter within 30 days after notice by the City that the meter is defective revokes the applicability of Paragraphs 1. and 2. of Subsection A. above. In such cases, user charges, at the regular rate, must be paid on the full amount of water passing through the supply meter during these 30 days. The regular sewer rate continues in effect until such time as the owner or person in charge of the premises formally notifies the Director that the meter has been repaired. At no time may a reduced charge or credit be allowed retroactively, or for a period in which the meter is defective.
2. Failure to report quantities of water subject to reduced charge or credit for two consecutive months revokes the applicability of Paragraphs 1. and 2. of Subsection A above. In such cases, user charges, at the regular rate, must be paid on the full amount of water passing through the supply meter during these 60 days. The regular sewer rate continues in effect until such time as the owner or person in charge of the premises formally notifies the Director that the reports will continue. At no time may a reduced charge or credit be allowed retroactively, or for a period in which no reports were submitted.

C. Meters required. Where private meters are used to determine the amount of water reaching the sewer, the owner or person in charge of the premises must give City employees the right of access at all reasonable times for the purpose of reading,

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inspecting or testing the meter. The owner is responsible for purchasing, installing, maintaining, and calibrating the private meter and must comply with all provisions in this Title. Failure of the owner, his lessee, or others acting under him to maintain the meter in good working order constitutes a violation of this Chapter and during the period of the meter's non-operation and pending the proper repair and reinstallation of the meter, the account may be billed on the basis of three times the normal water usage or in such an amount as deemed proper by the Director.

1. In cases where water is supplied solely from a private source or sources such as wells, springs, rivers or creeks, or forms a partial supply in addition to that furnished by the water system of the City, the private supply must be metered and any meters so used must conform to the provisions of this Chapter. Residential properties may elect to be billed based on the characteristics of this class of user as determined by the Director.
 2. Discharge meters. Where there are several water supplies or various uses of water that would be eligible for credit or charges under the various Sections of this Chapter, upon approval of the Director, a discharge meter may be installed in lieu of several submeters or other measurement methodology.
- D.** Estimating wastewater discharges. User charges as provided in this Chapter are applicable to all wastewater discharges to the City sewer system regardless of the source. In unusual circumstances where the wastewater is not from a fixed location, such as ships, barges, houseboats and other movable facilities or dwelling units, a method of determining the volume provided by the user may be used if approved by the Director. Otherwise, the Director estimates the volume of water to which user charges apply and this determination is final. The rate of charge is the same as though the water originated from a local, public or private source.
- E.** Where the user charges established by Code or general ordinance, are inappropriate for the service provided, the Director may establish the appropriate charges based on the unit costs developed in the most recent rate study. The new charge so established must be filed with the Council Clerk and may be reviewed by the Council on the motion of any member of the Council.

17.36.090 Meters.

Meters that are used under the provisions of this Chapter must conform to the conditions set forth in this Section, and must be approved by the Director as to type, maintenance, calibration schedule, size and location before installation.

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- A.** All meters must register in cubic feet.
- B.** Meters installed on water systems supplied from private or public sources and used to measure cooling, irrigation, evaporation or product water for the purpose of obtaining reduced sewer charges must be connected in such a manner as to register only that portion of the water supply used for that purpose, and not used for sanitary purposes.
- C.** Meters placed below the ground or pavement surface must have the top of the meter not more than 8 inches below the surface and must be enclosed in a standard water meter box and cover as used by the Portland Water Bureau. Meters located above the ground or floor level must not be more than 3-1/2 feet above the ground or floor level.
- D.** All meters must be located in an area that is accessible at all times; the meter must be so located that no locked door or gate shall be encountered by a City employee when inspecting the meter. Meters must not be located adjacent to dangerous machinery or structural hazard; the extent of such hazards shall be determined by the Director.
- E.** For purposes of calculating user charges, owners of meters must implement a program to ensure meter accuracy. The program should consider the manufacturer's periodic maintenance and calibration requirements. All maintenance and calibration records must be retained and available for review by City personnel.

17.36.100 Clean River Rewards.

- A.** Objectives. The objectives of the Clean River Rewards are to increase ratepayer control over stormwater management charges and to advance City environmental goals. The City achieves these objectives by providing economic incentives, technical assistance, and environmental education to ratepayers who control and manage the quality and quantity of stormwater runoff on their private property.
- B.** Authority. The Director is authorized to establish and administer Clean River Rewards, and promulgate administrative rules to implement the program. The rule must contain the following elements:
 - 1.** definitions for all terms and concepts that are unique to Clean River Rewards, unless otherwise referenced in City Code;
 - 2.** criteria to be used by the City to determine eligibility for Clean River Rewards;

3. methods for calculating the amount of incentives and discounts to be awarded to eligible registrants;
4. procedures for verifying the validity and accuracy of incentives and discounts, and enforcing administrative rules; and
5. procedures for review and reconsideration of Bureau decisions upon request of ratepayers.

17.36.110 Extra-Strength Wastewater Charges.

- A. Wastewater discharged to a City sewer, either directly or indirectly, is subject to the extra-strength sewage charge if the discharge has a biochemical oxygen demand or a total suspended solids concentration in excess of concentrations determined by the Director. The Director may establish concentrations of other pollutants which are to be subject to extra-strength sewage charges, and for the period until the next rate study, the rates to be charged for exceeding those levels, as established, annually, by general ordinance. Payment of the extra-strength sewage charge does not relieve the discharger of responsibility for all other applicable provisions of Chapter 17.34 Sanitary Wastewater Discharges.
- B. Basis of extra-strength sewage charge rates.
 1. Monitoring. The average concentration of daily representative samples taken over a representative period of 5 days is used to begin an extra-strength sewage charge rate for a rolling average, except when another period is specified by the Director. Samples are taken at an approved sampling manhole or other appropriate location, as determined by the Director, so that samples will be representative.
 - a. Self-monitoring. The Director may authorize reporting by users for the purposes of calculating extra-strength sewage charge rates.
 - b. Self-monitoring data. The Director may allow a user to submit monitoring data in support of extra-strength sewage charge rate calculations. Samples of wastewater being discharged into the sewer system must be representative of the discharge.
 - c. Split samples. The Director may allow samples collected by the City for the purpose of determining an extra-strength sewage charge rate be split with the user, as provided for in procedures issued by the Director.

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- d.** Analytical procedures. All analytical data submitted for calculating extra-strength sewage charge rates must be in accordance with procedures approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto as published in the Federal Register.
- e.** Monitoring reports. Self-monitoring reports must include sufficient information, for purposes of calculating the rolling average for Extra Strength Sewer Charges. At no time shall the number of Extra Strength Sewer Charges slugloads exceed two per calendar year.
- f.** Other charge computations. If unusual effluent conditions make calculation by the composite method difficult or impossible, the Bureau may implement another method of sampling and computation acceptable to the Director, and based on the rates established, annually, by general ordinance.
- g.** Additional sample requests; fees. Any user subject to rolling average monitoring may request the City to collect samples in excess of the prescribed criteria. Requests for the City to collect additional samples must be submitted in writing and accompanied by full payment, in accordance with the resampling fees established, annually, by general ordinance.
- h.** Slugloads. The Director may allow the slugload provision as defined in Chapter 17.34 of this Code for purposes of Extra Strength Sewer Charges if the following conditions are met:

 - (1)** The discharge is non-representative of the industrial discharge;
 - (2)** The slugload was reported to the City within 24 hours of the incident;
 - (3)** The sample result from the slugload exceeds 3 times the established standard deviation. Once the Director allows the slugload provision, the City will follow the standard procedure for slugload as defined in Chapter 17.34 of this Code. The sample results will be used for calculating a single Extra Strength Sewer Charge based on the duration of the slugload and the concentrations of the results. The results will not be used for purposes of calculating the rolling average for Extra Strength Charges. The number of

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Extra Strength Sewer Charges slugloads may not exceed two per calendar year.

2. Concentration. Pollutants in excess of the allowable concentrations, specified in this Title, and by general ordinance, are subject to the extra-strength sewage charge rate (in dollars per 100 cubic feet) for the period throughout the time interval between sample periods or as defined by the Director.
 3. Volume. The volume used to bill the extra-strength charge must be the total metered water supply to the premises. However, where the industrial wastewater is discharged separately from domestic sanitary wastes or cooling waters, and the industrial user provides a meter or other acceptable method of determining the quantity of water not subject to the extra-strength sewage charge, then an appropriate allowance for such other uses must be made.
- C. Billing. Extra-strength sewage charges are either included with the City utility bill or are billed separately by the City Auditor. Extra-strength sewage charges are enforceable and collectable in the same manner as water and sewer user charges. If such charges are not paid pursuant to Title 21 of this Code, such nonpayment is cause for termination of water and/or sewer services.
- D. Minimal charges; suspension. The Director may establish a minimum limit for periodic extra-strength charges. The billing for all accounts whose periodic extra-strength sewage charges are below this minimum limit will be suspended until such time as they are found to be higher.
- E. Adjustments. The Director may sample sewage strength as outlined in this Section and adjust charges where applicable at any time in accordance with the most recent analysis.

17.36.120 Other Charges.

Building plan review fees. The Bureau collects fees for the review of building plans and land use proposals to ensure compliance with requirements for sewage disposal, stormwater management, and for determining routes of service. Fees are established annually, by general ordinance, and paid at the time the plans or proposals are submitted for review to the City.

17.36.130 Computing and Billing.

In cases where City utility bills apply, the user charges, provided in this Chapter, are computed monthly, bimonthly, or quarterly, and billed to the responsible party described in Code Section 21.16.030 Billing Responsibility at the same time as the user charges for water service and added thereto; or otherwise, as may be authorized by the Council.

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When billed with the utility bill, user charges are due and payable on the dates and at the places provided for the payment of user charges for water service. The City may prorate user charges for a portion of a utility billing period based on the effective date of the sanitary sewer or stormwater management service.

17.36.140 Certain Installations Unlawful.

It is unlawful to so install, change, bypass, adjust, or alter any metering device or any piping arrangement connected therewith as to show the quantity of water reaching the public sewer under City control to be less than actual quantity.

17.36.0150 Identification of Inspectors.

Each City employee going upon private premises for the purpose of reading, inspecting or testing any metering device installed under the provisions of this Title, must wear, in a conspicuous place, upon the exterior of his or her clothing a readily discernible badge identifying the employee as a sewer user service inspector. Each City employee, when acting as a sewer user service inspector, must also carry credentials from the Bureau of his or her employment, which he or she must show upon demand of any owner or person in charge of the premises entered.

17.36.160 Collection.

- A.** Use service charges are a personal obligation of the ratepayer and shall become due, and be collected monthly, bimonthly, or quarterly, coincident with user charges for water service. For ratepayers who do not receive water service from the City, the Bureau will cause the user charges to be computed and billed monthly, bimonthly, or quarterly. Any bill for a user charge, whether included with user charges for water service or otherwise, is delinquent and subject to collection charges if not paid in accordance with the collection schedule published in the annual rate ordinances. Nonpayment of delinquent user charges will result in water shutoff when the premises are furnished water service by the City; pursuant to Title 21 of this Code.
- B.** All charges for services provided directly by the City are chargeable to the user of said service at that premises (or any former premises where services were supplied). If the premises are not in use, all charges (not including charges incurred by a prior tenant other than the owner) are the responsibility of the owner as the person with the right to possession of the premises. A property owner or his agent may become obligated for charges for furnishing such services to the user by accepting responsibility for payment, or by agreement with the City. Where a user or property owner has a delinquent bill for one premises, this delinquency is a charge against the user or property owner (for sewer service obtained) at any of his or her other premises serviced by the City.

- C. The Director, with approval of the Commissioner-in-Charge, may discontinue sanitary sewer service by disconnecting and plugging the sewer service line to properties whose delinquent user charges exceeds \$10,000 for a period of 90 days or more. Ratepayers and property owners must be notified in writing of the City's intent to disconnect the sewer not less than 30 days prior to disconnection. Payment of the delinquent amount, including outstanding user charges, accrued interest and collection costs, and all costs associated with disconnecting and reconnecting the sewer line, must be received by the City before the property may be reconnected to the sewer. The delinquent amount remains the responsibility of the ratepayer. In the event a ratepayer who is not the owner terminates their lease and moves from a disconnected property before reconnection has occurred, the City will reconnect the property and collect the cost as well as all delinquent amounts from the ratepayer who originally incurred the charges.

17.36.170 Deposit and Application.

An application, deposit, or both, for sanitary sewer or stormwater management services may be required from all new ratepayers, ratepayers whose service has been shut off for nonpayment, or persons with unsatisfactory credit who are requesting services. Unsatisfactory credit is defined as shut off for nonpayment of water or sewer charges within the past year. Failure to provide either the application, deposit, or both within the due date specified by the City may result in discontinuance of service.

17.36.180 Adjustment of Bills.

- A. When the Bureau determines that a billing error has occurred, the Bureau may authorize an adjustment of the ratepayer's utility account for the period of the error, not to exceed three years from the date the error is identified.
- B. Except as set forth in this Subsection, a ratepayer's eligibility for an adjustment will end six months after the date a final bill was issued for the subject account. The Director make authorize an adjustment to the ratepayer of a closed utility account, more than six months after the issuance of the account's final bill, based on the following criteria:
1. The Bureau finds that the ratepayer was billed for sanitary sewer services for a property that was not connected to the City's sewer system; and
 2. The error is discovered after the six month deadline for adjustments to a final bill; and
 3. The request is made in writing by the ratepayer of record at the time the billing error occurred; and
 4. The adjustment is limited to the sanitary sewer user charge; and

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- 5.** The Director finds that the adjustment is necessary to protect the financial condition of the sanitary sewer utility.
- C.** Adjustments will be in the form of credits or additional charges to active utility accounts. The City may not issue refunds for billing adjustments unless approved by the Director. Refunds are chargeable to the Sewer System Operating Fund.
- D.** Ratepayers who receive a back billing or a delayed billing will be offered the opportunity to pay the balance due over a set period based on current City collection policies.

Chapter 17.38

DRAINAGE AND WATER QUALITY

(Chapter replaced by Ordinance
No. 173330, effective June 4, 1999.)

Sections:

- 17.38.010 Authority.
- 17.38.015 Intent.
- 17.38.020 Definitions.
- 17.38.025 Rule Making.
- 17.38.030 Protection of Drainageway Areas.
- 17.38.035 Drainage Management Policies and Standards.
- 17.38.040 Stormwater Management Facilities Required.
- 17.38.041 Parking Lot Stormwater Requirements.
- 17.38.045 Enforcement.
- 17.38.050 Erosion Control Required.

17.38.010 Authority.

(Amended by Ordinance No. 174745, effective August 25, 2000.) The Director of Environmental Services is responsible for administering the requirements of this Chapter. The Director has the authority and responsibility to adopt rules, procedures, and forms to implement the provisions of this chapter and to maintain a Stormwater Management Manual.

17.38.015 Intent.

(Amended by Ordinance No. 182144, effective September 26, 2008.) The intent of this Chapter is to provide for the effective management of stormwater, groundwater, and drainage, and to maintain and improve water quality in the Watercourses and Water Bodies within the City of Portland as described in Section 17.38.035.

17.38.020 Definitions.

(Amended by Ordinance Nos. 174745, 176561, 176783, 180037 and 182144, effective September 26, 2008.)

- A. "Approved Drainage System." A system approved by BES which, in general, shall adequately collect, convey, treat and or dispose of stormwater runoff or other site discharge. Approved systems shall meet all requirements and specification laid out in this code or in any BES design guidance document plus any applicable plumbing code provisions relating to the piped portions of any system.

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- B.** “Building Permit”. A permit required by state administrative rule or the City Code for the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal or demolition of a building or structure or any appurtenances connected or attached to such buildings or structures.
- C.** "Capacity." The flow volume or rate that a facility (e.g., pipe, pond, vault, swale, ditch, drywell, etc.) is designed to safely contain, receive, convey, reduce pollutants from or infiltrate to meet a specific performance standard. Performance standards for pollution reduction, flow control, conveyance, and infiltration/discharge, vary by facility depending on location.
- D.** "Combination Facilities." Systems that are designed to meet two or more of the multiple objectives of stormwater management as detailed in the Stormwater Management Manual.
- E.** “Conveyance.” The transport of stormwater or wastewater from one point to another point.
- F.** "Director." The Director of the Bureau of Environmental Services, or the Director's designee.
- G.** “Discharge.” A discharge is any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching or placing of any material so that such material enters or is likely to enter a waterbody, groundwater, or drainage conveyance structure such as a pipe or ditch.
- H.** “Discharge Point.” The ultimate destination for the stormwater leaving a particular site, also known as the stormwater disposal point. Discharge can be through:
 - 1.** Onsite infiltration (surface infiltration facilities, drywells, sumps and soakage trenches, or
 - 2.** Offsite flow to ditches, drainageways, rivers, streams, public or private separate stormwater piped systems, or combination sewers.
- I.** “Discharge Rate.” The rate of flow expressed in cubic feet per second (cfs).
- J.** "Disposal." See definition of Discharge Point.

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- K.** "Drainageway." An open linear depression, whether constructed or natural, which functions for the collection and drainage of surface water. It may be permanently or temporarily inundated.
- L.** "Groundwater." Subsurface water that occurs in soils and geological formations that are fully saturated. Groundwater fluctuates seasonally and includes perched groundwater. Groundwater related discharges include, but are not limited to, subsurface water from site remediation and investigations, well development, Brownfield development, discharges from footing and foundation drains, rainwater infiltration into excavations and subsurface water associated with construction or property management dewatering activities.
- M.** "Impervious Surface / Area." Any surface that has a runoff coefficient greater than 0.8 (as defined in the City's Sewer and Drainage Facilities Design Manual). Types of impervious surfaces include rooftops, traditional asphalt and concrete parking lots, driveways, roads, sidewalks and pedestrian plazas. Note: Slatted decks are considered pervious. Gravel surfaces are considered pervious unless they cover impervious surfaces or are compacted to a degree that causes their runoff coefficient to exceed 0.8.
- N.** "Infiltration." The percolation of water into the ground. Infiltration is often expressed as a rate (inches per hour) which is determined through an infiltration test.
- O.** "Offsite Stormwater Facility." Any stormwater management facility located outside the property boundaries of a specific development, but designed to provide stormwater management benefits for that development.
- P.** "Onsite Stormwater Facility." Any stormwater management facility located within the property boundaries of a specific development, and designed to provide stormwater management benefits for that development..
- Q.** "Pollutants of Concern." Watershed-specific parameters identified by the Oregon Department of Environmental Quality (DEQ) as having a negative impact on the receiving water body. Pollutants of concern can include suspended solids, heavy metals, nutrients, bacteria and viruses, organics, volatiles, semi-volatiles, floatable debris and increased temperature.
- R.** "Practicable." Available and capable of being done as determined by the Director, after taking into consideration cost, resources, existing technology, and logistics in light of overall project purpose.
- S.** "Public Works Project." Public Works Project means any development conducted or financed by a local, state, or federal governmental body and includes Local

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Improvements and Public Improvements as defined in Title 17, PUBLIC IMPROVEMENTS.

- T.** "Redevelopment." Any development that requires demolition or complete removal of existing structures or impervious surfaces at a site and replacement with new impervious surfaces. Maintenance activities such as top-layer grinding, re-paving (where the entire pavement is not removed) and re-roofing are not considered redevelopment. Interior remodeling projects and tenant improvements are also not considered to be redevelopment. Utility trenches in streets are not considered to be redevelopment unless more than 50 percent of the street width is removed and re-paved.
- U.** "Site Map." For purposes of this code section, a site map shall show the stormwater management facility location in relation to building structures or other permanent monuments on the site. The Site map shall depict location of sources of runoff entering the facility and the discharge point and type of receiving system for runoff leaving the facility.
- V.** "Stormwater." Water that originates as precipitation on a particular site, basin, or watershed. Also referred to as runoff.
- W.** "Stormwater Management." The overall culmination of techniques used to reduce pollutants from, detain, retain, or provide a discharge point for stormwater to best preserve or mimic the natural hydrologic cycle, to accomplish goals of reducing combined sewer overflows or basement sewer backups, or to fit within the capacity of the existing infrastructure.
- X.** "Stormwater Management Facility." A technique used to reduce pollutants from, detain, retain, or provide a discharge point for stormwater to best preserve or mimic the natural hydrologic cycle, to accomplish goals of reducing combined sewer overflows or basement sewer backups or to fit within or improve the capacity of existing infrastructure.
- Y.** "Temporary Structure." A structure shall be deemed temporary if it is a separate and distinct entity from all other structures and it is created and removed in its entirety, including impervious area associated with the structure, within a continuous period of three years or less.
- Z.** "Tract." A tract is a section of land set aside from development during the Land Division phase of development. Tract as used in this code section shall be the definition of tract as described in Title 33 of the City Code.
- AA.** "Water Body." Water bodies include coastal waters, rivers, sloughs, continuous and intermittent streams and seeps, ponds, lakes, aquifers, and wetlands.

- BB.** "Watercourse." A channel in which a flow of water occurs, either continuously or intermittently, with some degree of regularity. Watercourses may be either natural or artificial.
- CC.** "Wetland." An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs, and similar areas except those constructed as pollution reduction or flow control facilities. Specific wetland designations shall be made by the U.S. Army Corps of Engineers and the Oregon Department of State Lands.

17.38.025 Rule Making

(Amended by Ordinance No. 182144, effective September 26, 2008.)

- A.** Public Review. Any rule adopted pursuant to this section shall require a public review process. Not less than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. The Office of Neighborhood Involvement shall be notified at least 30 days in advance of the public review process. Such notice shall include the place, time, and purpose of the public review process and location at which copies of the full set of the proposed rules may be obtained.
- B.** Adoption of Rules.
- 1.** During the public review, a designee of the Director shall hear testimony and receive written comments concerning the proposed rules. The Director shall review the recommendation of his or her designee, taking into consideration the comments received during the public review process and shall either adopt the proposal, modify or reject it.
 - 2.** If a substantial modification is made to the rules submitted for public review, the Director may adopt the modification as Interim Rules or shall provide an additional public review prior to adoption.
 - 3.** Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director.
 - 4.** The Stormwater Management Manual shall be the main administrative rule used to implement this Title.
- C.** Interim Rules.

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1. Notwithstanding paragraphs 17.38.015 A. and B., an interim rule may be adopted without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties. The rule should include the specific reasons for such prejudice.
 2. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than 180 days.
 3. After adoption, public notice of interim rules shall be given by publication in a newspaper of general circulation and notice sent to the Office of Neighborhood Involvement. Such notice shall include the location at which copies of the full set of the interim rules may be obtained.
- D. Initial Rules.** Notwithstanding sections 17.38.015 A.-C. above, the rules contained in the Stormwater Management Manual filed with the Council in conjunction with Ordinance No. 173330 may be adopted by the Director without further public review.

17.38.030 Protection of Drainageway Areas.

(Added by Ordinance No. 176561; amended by Ordinance Nos. 176783 and 182144, effective September 26, 2008.)

- A. Authority.** The Director may require drainage reserves or tracts over seeps, springs and drainageways as necessary to preserve the functioning of these areas and to limit flooding impacts from natural and man made channels, ditches, seeps, spring, intermittent flow channels and other open linear depressions. Standards and criteria for imposing drainage reserves or tract requirements shall be adopted by administrative rule. Placement and/or sizing of drainage reserves does not relieve property owners of their responsibility to manage stormwater in a manner that complies with the duties of property owners under applicable law. Drainage reserve or tract requirements may be imposed during land use reviews, building permit review or other development process that require Bureau of Environmental Services review.
- B. Required Management of the Drainage Reserve.** Storm drainage reserves or tracts shall remain in natural topographic condition. No private structures, culverts, excavations, or fills shall be constructed within drainage reserves or tracts unless authorized by the BES Chief Engineer by administrative rules found in the Stormwater Management Manual. All changes must also comply with other zoning regulations as described in Title 33. Encroachment agreements can be made between the property owner and the City.

- C. Implementation. BES has authority to identify and implement protections for drainageways during multiple development review processes, including land use reviews and building permit reviews. The early identification efforts will consider the ability of developers to design around drainage reserve areas.

17.38.035 Drainage Management Policies and Standards.

(Amended by Ordinance Nos. 174745, 176561, 176783, 176955, 180037 and 182144, effective September 26, 2008.)

- A. Stormwater shall be managed in as close proximity to the development site as is practicable, and stormwater management shall avoid a net negative impact on nearby streams, wetlands, groundwater, and other water bodies. All local, state, and federal permit requirements related to implementation of stormwater management facilities must be met by the owner/operator prior to facility use. Surface water discharges from onsite facilities shall be discharged to an approved drainage facility.
1. The City may initiate individual agreements with property owners to manage stormwater flows through alternative methods to onsite controls:
 - a. In joint facilities where public and private property flows co-mingle.
 - b. In offsite areas that are “traded” for required onsite management areas related to new and redevelopment. The City may require more than a 1:1 exchange on the amount of required management area.
- B. The quality of stormwater leaving the site after development shall be equal to or better than the quality of stormwater leaving the site before development, as much as is practicable, based on the following criteria:
1. Stormwater management facilities required for development shall be designed, installed and maintained in accordance with the Stormwater Management Manual, which is based on achieving at least 70% removal of the Total Suspended Solids (TSS) from the flow entering the facility for the design storm specified in the Stormwater Management Manual.
 2. Land use activities of particular concern as pollution sources shall be required to implement additional pollution controls including but not limited to, those management practices specified in the Stormwater Management Manual.

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3. Development in a watershed that drains to streams with established Total Maximum Daily Load limitations, as provided under the Federal Clean Water Act, Oregon Law, Administrative Rules and other legal mechanisms shall assure that stormwater management facilities meet the requirements for pollutants of concern, as stated in the Stormwater Management Manual.
 4. Stormwater discharge which is not practicable to fully treat to the standards of this Section and the Stormwater Management Manual, shall be either:
 - a. Managed in an offsite facility or
 - b. Given the option of paying a stormwater offsite management fee. The Bureau will employ a methodology for calculating the fee that is based upon an average unit cost of onsite facilities where such facilities would be effective and establish the calculation method and fee by rule. The stormwater offsite management fee collected shall be placed in a mitigation account to be used to mitigate the impacts that arise from offsite discharge of stormwater runoff.
 5. Notwithstanding Subsection 17.38.035 B.4., for any parcel created after the effective date of this Chapter, the development shall fully treat all stormwater:
 - a. Onsite, or
 - b. Within the original parcel from which the new parcel was created, or
 - c. In a privately developed offsite facility with sufficient capacity, as determined by the Bureau.
 6. The Director is authorized to exempt land uses, discharge locations or other areas of the city from the requirements of this Subsection if onsite pollution reduction or pollution control is not needed or desirable due to limited pollutant loads or offsite methods of pollution control are available. All exemptions are specified in the Stormwater Management Manual.
- C. The quantity and flow rate of stormwater leaving the site after development shall be equal to or less than the quantity and flow rate of stormwater leaving the site before development, as much as is practicable, based on the following criteria:

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1. Development shall mitigate all project impervious surfaces through retention and on-site infiltration to the maximum extent practicable. Where on-site retention is not possible, development shall detain stormwater through a combination of provisions that prevent an increased rate of flow leaving a site during a range of storm frequencies as specified in the Stormwater Management Manual.
2. The Director is authorized to exempt areas of the city from the quantity control requirements if flow control is not needed or desirable because there is sufficient capacity and limited impacts to the receiving drainage system. All exemptions shall be specified in the Stormwater Management Manual.
3. Any development that discharges to a tributary of the Willamette River, other than the Columbia Slough, shall design stormwater management facilities such that the rate of flow discharging from such facilities for up to a two-year design storm event does not lengthen the period of time the tributary channel receiving the discharge sustains erosion causing flows, as determined by the Bureau.
4. Site drainage facilities shall be designed to safely convey the less frequent, higher flows through or around stormwater management facilities and to an approved drainage system with adequate capacity without damage to the receiving drainage system, whether natural or manmade.
5. Stormwater discharge which cannot be practicably managed for quantity or flow rate control as defined in this Subsection and the Stormwater Management Manual shall either be:
 - a. Managed in an offsite facility designed for the pollutant load, volume and rate of flows from subject property and managed by the site developer/site owner or another legal agent, or
 - b. Managed in an offsite stormwater management facility operated by the City subject to paying a stormwater offsite management fee. The Bureau will employ a methodology for calculating the fee that is based upon an average unit cost of onsite facilities where such facilities would be effective and establish the calculation method and fee by rule. The stormwater offsite management fee collected will be placed in a mitigation account to be used to mitigate the impacts that arise from offsite discharge of stormwater runoff.
6. Notwithstanding Subsection 17.38.035 C.5., for any parcel created after the effective date of this Chapter, stormwater shall be fully managed:

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- a.** Onsite, or
 - b.** Within the original parcel from which the new parcel was created, or
 - c.** In a privately developed offsite facility with sufficient capacity, as determined by the Bureau.
- D.** The Director is authorized to establish requirements for the pumping and discharge of groundwater as a waste (discharge to waste). The Stormwater Management Manual regulations govern both quality and quantity impacts of pumping and discharging groundwater to City receiving systems. The regulations may exempt, establish discharges as de minimus, or provide for and limit the permanent or temporary discharge of groundwater. Temporary groundwater discharges may be authorized through the batch discharge processes described in Title 17.34 and 17.39. In establishing rules to regulate the pumping and discharge of groundwater as a waste, the Director shall, at a minimum, incorporate and implement the following standards.
 - 1.** Authorizations for discharge. Unless the Director's rules establish exceptions or determines discharges are de minimus, any pumping and discharge to waste of groundwater may proceed only after a groundwater specific discharge authorization by the Director. This authorization shall establish volume, flow rate and pollutant load limits for the discharge.
 - 2.** Limiting flow volume and flow rate. Pumping and discharge of groundwater as a waste will only be allowed where the proposed discharger has first reduced the rate and volume of groundwater requiring discharge to a City system to the greatest extent practical. Examples include:
 - a.** Limiting the pumping and discharge of groundwater to rates not exceeding those rates that would be required for a building designed and engineered to minimize ground water intrusion and necessary ground water pumping; and
 - b.** Requiring management techniques implemented by the property developer and operator to assure continued effective use of structures in the presence of groundwater infiltration; and
 - c.** When there is sufficient capacity in the City receiving system. Capacity shall be defined by rule and will consider providing

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capacity for other and future anticipated and primary uses of the systems.

3. Onsite management a priority. Disposal of pumped ground water shall be accomplished first by onsite disposal methods, such as infiltration, to the greatest extent practical. Thereafter, the water shall be disposed of, to the greatest extent practical, through the use of private conveyance facilities and discharge through infiltration offsite or to surface water bodies. Offsite discharge to City systems shall be approved only after onsite alternatives are evaluated.
4. Prohibited discharges. Offsite discharges meeting the following criteria are prohibited:
 - a. Discharge to City-owned underground injection controls (UICs).
 - b. Discharges meeting the tests for prohibited discharges in Chapters 17.34 and 17.39. Notwithstanding this limitation, the City may allow discharge of contaminated ground water that has been treated to meet standards set by the Director to insure that any groundwater discharges do not cause or threaten to cause a public nuisance, groundwater or surface water pollution, cause or threaten to cause the City to violate its own discharge permits granted by the Department of Environmental Quality.
 - (1) The Director may establish rules to limit or prevent the pumping and discharge of contaminated groundwater and may require one-time or on-going testing or monitoring of water quality by the applicant for discharge authorization approval.
- E. All conveyance systems shall be analyzed, designed and constructed for existing tributary offsite runoff and developed onsite runoff from the proposed project in compliance with the City's Sewer and Drainage Facilities Design Manual. The general goal of these standards is to convey both onsite and offsite waters in a way that meets the capacity needs of the City conveyance system, is protective of public health and safety, and that minimizes environmental impacts in the downstream receiving system. The Director reserves the right to determine the appropriateness of combination facilities in meeting these standards.
- F. All discharge and disposal systems shall comply with the standards set forth in the Stormwater Management Manual. Public systems shall be reviewed and approved by BES in compliance with the sizing and location

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standards in the Stormwater Management Manual. Private onsite disposal systems shall comply with the stormwater hierarchy and other guidance specified in the Stormwater Management Manual, and shall be reviewed by Bureau of Development Services for compliance with the plumbing code regulations in Section 25.01.020.

17.38.040 Stormwater Mangement Facilities Required.

(Amended by Ordinance Nos. 174745, 176783, 180037 and 182144, effective September 26, 2008.) No plat, site plan, building permit or public works project shall be approved unless the conditions of the plat, permit or plan approval requires installation of permanent stormwater management facilities designed according to standards or guidelines established by the Director and as specified in the Stormwater Management Manual.

- A.** Applicability. All development and redevelopment sites with the following triggers must comply with the standards of the Stormwater Management Manual:
 - 1.** Creation of any new impervious area. Sites with 500 square feet or more of impervious area must be managed for pollution reduction, quantity or flow control requirements as spelled out in this Section; or
 - 2.** Modification to or construction of new areas with pollution generating activities of concern as identified in the Stormwater Management Manual. These areas must be constructed with applicable onsite controls; or
 - 3.** New connections or new drainage areas routed into the City's sewer or drainage system under a City permit. These connections most often are generated from decommissioning of private, onsite drainage or groundwater related systems.
 - 4.** Temporary structures are exempt from pollution reduction and flow control requirements, except for specific instances called out in the Stormwater Management Manual.
- B.** Exemptions. The requirements of this Chapter for stormwater management do not apply to:
 - 1.** Development for which an application for development approval is accepted by the permitting agency prior July 1, 1999 shall be subject to the requirements in place at the time of application.
 - 2.** Public or private development that does not result in impervious surface coverage or results in coverage that is de minimus in relation to discharge,

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such as fences, environmental enhancement projects, buried pipelines or cables, and utility lines.

3. Impervious surface created by a stormwater management facility such as but not limited to headwalls, manhole or vault covers. Paved or compacted gravel facility access and maintenance roads that extend beyond the facility itself, are not exempted from the management requirements of this Title.

C. Appeals. Any applicant for a permit or authorization aggrieved by a decision, interpretation, or determination made pursuant to this Chapter or rules adopted thereunder, including the Stormwater Management Manual, may appeal such action in accordance with appeals processes specified in the Stormwater Management Manual.

1. Provision for reasonable interpretation of the Stormwater Management Manual. The Director shall establish an internal BES Administrative Review Committee and a BES Appeals Board. The Chief Engineer of the Bureau of Environmental Services shall appoint outside members to the BES Appeals Board.
2. Applicants shall file appeals in accordance with the appeals process procedures specified in the Stormwater Management Manual.

D. Maintenance of Stormwater and Groundwater Management Facilities.

1. All new development, redevelopment, plats, site plans, building permits or public works projects, as a condition of approval, shall be required to submit an operation and maintenance plan for the required stormwater management facilities for review and approval by the Bureau of Environmental Services, unless otherwise exempted in the Stormwater Management Manual. A stormwater management facility that receives stormwater runoff from a public right-of-way shall be a public facility, and maintained by the City, unless the right-of-way is not part of the City road maintenance system.
 - a. The information required in an operation and maintenance plan shall satisfy the requirements in the Stormwater Management Manual. Applicants are encouraged to use the O & M Plan template provided in the Stormwater Management Manual. The Plan shall include and not be limited to:
 - (1) Design plans of the specific facility and related parts, including design assumptions; and

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- (2) A schedule for routine inspection, including post storm related inspections; and
 - (3) A description of the various facility components, the observable trigger for maintenance, and the method of maintenance, including appropriate method of disposal of materials; and
 - (4) The intended method of providing financing to cover future operations and maintenance; and
 - (5) The party or parties responsible for maintenance of the facility including means of effecting contact, including contact means for emergency situations. The party may be an individual or an organization.
 - b. A maintenance log is required. The log shall provide a record of all site maintenance related activities. The log shall include the time and dates of facility inspections and specific maintenance activities. This log shall be available to City inspection staff upon request.
- 2. Failure to properly operate or maintain the water quality or quantity control facility according to the operation and maintenance plan may result in an enforcement action, including a civil penalty, as specified in 17.38.045, Enforcement.
- 3. A copy of the operation and maintenance plan shall be filed with the Bureau of Environmental Services. Staff may require a site map to be recorded and filed with the appropriate county Department of Assessment and Taxation.
- E. The Director may file instruments in county deed records to inform future property owners of regulations and conditions of approval related to the property as provided in this Chapter and associated rules, including the Stormwater Management Manual.

17.38.041 Parking Lot Stormwater Requirements.

(Added by Ordinance No. 174745; amended by Ordinance No. 180037, effective April 28, 2006.) Stormwater runoff from parking lots must be managed in parking lot interior or perimeter landscaping to the extent required by the Stormwater Management Manual. The Director is authorized to exempt activities, land uses, or identified sites from these requirements if use of parking landscape areas is not needed or desirable because of non-

conforming or existing landscape areas. All exemptions are described in the Stormwater Management Manual.

17.38.045 Enforcement.

(Amended by Ordinance Nos. 180037 and 182144, effective September 26, 2008.)

- A.** Enforcement. Persons who fail to comply with the provisions of this chapter and the BES Stormwater Discharge Enforcement Rules adopted hereunder may be subject to enforcement actions by the Director.
- B.** Site Inspection. Authorized City representatives may inspect stormwater or groundwater management facilities to determine compliance with this Chapter. The facility owner shall allow and provide for free access for representatives of the Bureau of Environmental Services to enter upon the premises where the facility is located for the purpose of inspection or assuring compliance with this Chapter and the Stormwater Management Manual.
- C.** Conditions for entry.
 - 1.** The authorized City representative shall present appropriate credentials at the time of entry.
 - 2.** The purpose of the entry shall be for inspection to ensure compliance with this Chapter and the Stormwater Management Manual of the onsite stormwater management facilities.
 - 3.** Entry shall be made at reasonable times during normal operating or business hours unless an emergency situation exists as determined by the Director.
- D.** Violations. A violation shall have occurred when:
 - 1.** Any requirement of this Chapter or rules adopted hereunder has not been met; or
 - 2.** When a written request of the Director, made under authority of this Chapter, is not met within the specified time; or
 - 3.** When any condition of an operations and maintenance plan or agreement issued under the authority of this chapter or rules is not met within a specified time; or
 - 4.** When the facility through maintenance neglect or facility failure no longer operates as designed, or

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5. When the facility fails to have a properly recorded or inaccurate O & M plan on file with BES.
- E.** Remedies. Enforcement Mechanisms. If BES determines that a violation has occurred or is likely to occur, BES may offer technical assistance and education to the responsible party to prevent or correct the violation. In enforcing any of the requirements of this Chapter or rules adopted hereunder, the Director, or a duly authorized representative, may employ any of the following enforcement methods:
1. Take civil administrative actions, as set out in rules adopted under the authority of this chapter;
 2. Issue compliance orders;
 3. Institute an action before the Code Hearings Officer
 4. Cause an appropriate action to be instituted in a court of competent jurisdiction; or
 5. Take such other action as the Director, in the exercise of his or her discretion, deems appropriate.
- F.** Penalties. Violations of this chapter or rules adopted hereunder may result in assessment of civil penalties in an amount up to \$500 per day per violation.
1. Collection of penalties and costs. All civil penalties shall be deposited with the City Treasurer and credited to the Sewage Disposal Fund. Penalties and costs are payable upon receipt of the final order imposing penalties and costs. Penalties and costs under this chapter are a debt owing to the City and may be collected in the same manner as any other debt. Penalties shall accrue interest and any other applicable charges until the penalty is paid in full. The City may initiate appropriate legal action in any court of competent jurisdiction to enforce the provisions of any written settlement or final order of the Hearings Officer.
- G.** Appeals. Appeal of an enforcement action. Upon receipt of a final determination of an enforcement action, a person may appeal the determination to the Code Hearings Officer in accordance with the procedures set out at Chapter 22.10 of the Portland City Code provided that such appeal shall include a copy of the final determination that is the subject of the appeal, shall state the basis for the appeal, and shall be filed with the Code Hearings Officer and the Bureau of Environmental Services.

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- H.** Nuisance. A violation of this Chapter shall constitute a nuisance. Summary abatement of such nuisances is authorized.
- I.** Cost recovery. The Director may recover all reasonable costs incurred by the City which are attributable to or associated with the violations of this Chapter, including but not limited to the costs of administration, investigations, legal or enforcement activities, damages to or contamination of the sewer and stormwater systems; and any civil penalties assessed on the City which result from activities not in compliance with this chapter or rules adopted hereunder. The Director may also make a lien on the property or properties in accordance with the provisions of Chapter 22.06.
- J.** Conflict. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to extent of such inconsistency or conflict.
- K.** Severability. If any provision, paragraph, word, Section or Chapter of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, Sections and Chapters shall not be affected and shall continue in full force and effect.

17.38.050 Erosion Control Required.

(Amended by Ordinance No. 173979, effective March 1, 2000.) All public works projects constructed within the City of Portland must comply with Title 10, Erosion and Sediment Control Regulations.

17.38.060 Fill Mitigation In-lieu of Balanced Cut and Fill – the Johnson Creek Fill Mitigation Bank.

(Repealed by Ordinance No. 1282144, effective September 26, 2008.)

Chapter 17.39

STORM AND DRAINAGE SYSTEM DISCHARGES

(Chapter added by Ordinance No. 167404;
amended by Ordinance No. 182144,
effective September 26, 2008.)

Sections:

- 17.39.005 Intent of Chapter.
- 17.39.010 Declaration of Policy.
- 17.39.020 Definitions.
- 17.39.025 Authority of the Director of Environmental Services to Adopt Rules.
- 17.39.030 General Discharge Prohibitions.
- 17.39.040 Discharge Limitations.
- 17.39.045 Control of Illicit Discharges.
- 17.39.050 Discharge Permits.
- 17.39.060 Inspection and Sampling.
- 17.39.070 Reporting Requirements.
- 17.39.080 Stormwater Pollution Control Plan (SWPCP).
- 17.39.090 Accidental Spill Prevention and Control.
- 17.39.100 Records Retention.
- 17.39.110 Enforcement.
- 17.39.120 Conflict.
- 17.39.130 Severability.
- 17.39.140 Requests for Reconsideration.

17.39.005 Intent of Chapter

(Added by Ordinance No. 180037, effective April 28, 2006.) It is the intent of the City to provide needed sewer service to all dischargers who are meeting the outlined objectives of this Chapter. This Chapter provides the structure under which the service will be provided for discharges so that the City's conveyance, management and disposal systems and local receiving streams are protected. Provisions within this chapter will apply to the legally defined municipal separate storm sewer systems as well as all other public drainage systems (not including those sanitary systems as defined in 17.34) that convey, manage or dispose of stormwater flows or are a part of the BES stormwater utility.

17.39.010 Declaration of Policy.

(Amended by Ordinance No. 180037, effective April 28, 2006.) It is the policy of the City of Portland to provide the planning, engineering and administration necessary to develop and manage stormwater sewer system facilities that are adequate for the transportation and discharge to receiving streams of stormwater runoff from within the

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City and to operate the storm sewer system in a manner which protects public health and the environment. In carrying out this policy, the objectives of this Chapter are:

- A. To prevent pollutants from entering the separate storm sewer system which may reduce the water quality of the receiving stream or which may violate applicable water quality standards;
- B. To locate and eliminate illegal connections to the storm sewer system and storm drains;
- C. To improve the quality of the City's stormwater discharge to the receiving stream;
- D. To ensure worker health and safety;
- E. To ensure that all dischargers to the City's municipal separate storm sewer systems as well as all other public drainage systems that convey, manage or dispose of stormwater flows comply with local, state and federal laws and regulations and that sanctions for failure to comply are imposed.
- F. To provide for and promote the health safety and welfare of the general public.

17.39.020 Definitions.

(Amended by Ordinance Nos. 180037 and 182144, effective September 26, 2008.) For purposes of Chapter 17.39, and adopted rules thereunder, the following terms shall have the following definitions:

- A. **"Batch Discharge"**: Batch discharge shall mean the controlled discharge of a discrete, intermittent, and contained volume of discharge.
- B. **"Capacity"**: The flow volume or rate that a drainage facility (e.g., pipe, pond, vault, swale, ditch, etc.) is designed to safely contain, receive, convey, reduce pollutants from or infiltrate.
- C. **"City of Portland"**: City or City of Portland shall mean the municipality of Portland, Oregon, a municipal corporation of the State of Oregon, acting through the City Council or any Board, Committee, body, official or person to whom the Council shall have lawfully delegated the power to act for or on behalf of the City. Unless specifically designated in this Chapter or the rules adopted hereunder, whereon action by the City is explicitly required or implied herein, it shall be understood to mean action by the Director of Environmental Services of Portland, Oregon or his or her duly authorized representative or agent.
- D. **"Clean Water Act (CWA)"**: The Clean Water Act is the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et. seq.).

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- E. “Director of Environmental Services”:** The Director of Environmental Services is the Director of the Bureau of Environmental Services of the City of Portland, Oregon or his or her duly authorized representative.
- F. “Discharge”:** A discharge is any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching or placing of any material so that such material enters or is likely to enter a waterbody, groundwater, or drainage conveyance structure such as a pipe or ditch.
- G. “Discharger”:** A discharger is any person or business entity that discharges to the City’s separate storm sewer systems as well as all other public drainage systems that convey, manage or dispose of stormwater flows..
- H. “Ground Water”:** Groundwater is subsurface water that occurs in soils and geological formations that are fully saturated. Groundwater fluctuates seasonally and includes perched groundwater. Groundwater related discharges include, but are not limited to, subsurface water from site remediation and investigations, well development, Brownfield development, discharges from footing and foundation drains, rainwater infiltration into excavations and subsurface water associated with construction or property management dewatering activities.
- I. “Illicit Connection”:** Any piped or other connection to a City facility made not in compliance with a valid City permit.
- J. “Illicit Discharge”:** An illicit discharge is any discharge to the City’s separate storm sewer system that is not composed entirely of stormwater or the non-stormwater discharges identified in 17.39.030.C.
- K. “Interference”:** Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the normal operation of the City’s separate storm sewer system or causes a violation of any requirement of the City’s NPDES Stormwater Discharge Permit (including an increase in the magnitude or duration of a violation) or any increase in cost due to damage to the system or requirements for specialized treatment of stormwater caused by such a discharge.
- L. “NPDES Industrial Stormwater Discharge General Permit (1200 series)”:** An NPDES General Stormwater Discharge Permit is a permit issued by the Oregon Department of Environmental Quality authorizing a permittee to discharge stormwater to the public waters in accordance with limitations.

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- M. “Person”:** Person shall mean any individual company, enterprise, partnership, corporation, association, government agency, society or group; and the singular term shall include the plural.
- N. “Pollutant”:** A pollutant is any substance discharged into the sewer system which is prohibited or limited by the provisions of Chapter 17.39 of the City Code or by the provisions of any rules adopted thereunder.
- O. “Process Wastewater”:** Process wastewater is any water used in an industrial or commercial process that, as a result of that process, contains or mobilizes pollutants. Such pollutants may be liquid, solid or gaseous substances or combinations thereof, resulting from or used in connection with any process of industrial manufacturing, commercial food processing, business, agriculture, trade or research including but not limited to the development, recovery or processing of natural resources and leachates from landfills and other disposal sites. Process wastewater shall also include discharges, spills or leaks from all coupling areas where connections are made between holding tanks and transport vehicles for dischargers with tank farms.
- P. “Representative Sample”:** A sample collected by grab, composite or other agreed on means that reflects the quality of discharge runoff for a specific area or entire site. This sample is collected to assure compliance with permit or authorization pollution control limits.
- Q. “Separate Storm Sewer System”:** A storm sewer system comprised of conveyance or system of conveyances (including roads with drainage ditches, human made channels, groundwater related disposal systems, stormwater management facilities or storm drains) which is;
1. Owned or operated by a city, county, district or other public body (created pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater or other wastes, including special districts under state law, such as a sewer district, flood control district or drainage district or similar entity that discharges to waters of the United States;
 2. Designed or used for collecting and conveying stormwater;
 3. Not a combined sewer; and
 4. Not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR 122.2.
- R. “Significant Materials”:** The term significant materials includes but is not limited to: raw materials, fuels, materials such as solvents, detergents and plastic

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pellets; finished materials such as metallic products, raw materials used in food processing or production; hazardous substances designated under ORS 465.200 (16); any chemical the facility is required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

- S. “Stormwater”:** The term stormwater shall mean rainwater runoff, snowmelt runoff and surface runoff and drainage.
- T. “Stormwater Management Facility”:** A technique used to reduce pollutants from, detain, and/or retain, and dispose of (provide a destination for) stormwater to best preserve or mimic the natural hydrologic cycle, to accomplish goals of reducing combined sewer overflows or basement sewer backups, or to fit within the capacity of the existing infrastructure.
- U. “Toxic Chemical”:** A toxic chemical is any chemical listed as toxic under Section 307(a)(1) of the Clean Water Act or Section 313 of Title III of SARA.
- V. “Toxic Concentration”:** A toxic concentration is a concentration for a known chemical or mix of chemicals published on a state or federal pollutant database or registry that is lethal to aquatic life as measured by a significant difference in the lethal concentration between the control and 100 percent effluent in an acute bioassay. BES may require additional testing to establish toxic concentrations for chemicals and mixtures without peer reviewed toxicology standards.

17.39.025 Authority of the Director of Environmental Services to Adopt Rules.

(Amended by Ordinance No. 182144, effective September 26, 2008.)

- A.** For purposes of the functions described in Charter section 11-303, the City Engineer may delegate his or her authority to perform those functions to the Director of Environmental Services (Director). This delegation may be accomplished by filing a written notice of delegation with the City Auditor and approval of the delegation by resolution of the City Council. Upon approval of the delegation by the City Council, the Director shall be responsible for performing the delegated functions, and the City Engineer shall not be responsible for supervising or approving actions of the Director of Environmental Services pursuant to the delegated authority. This delegation shall remain in effect until modified by resolution of the City Council.
- B.** The Director is hereby authorized to adopt rules, procedures and forms to implement the provisions of this Chapter.
- C.** Adoption of Rules.

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1. Upon the recommendation of the Director of Environmental Services, the Bureau of Environmental Services may adopt rules pertaining to matters within the scope of this Chapter.
 2. Any rules adopted pursuant to this Section shall require a public review process. Not less than ten or more than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include place, time and purpose of the public review process and the location at which copies of the full text of the proposed rules may be obtained.
 3. During the public review process, a designee of the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendation of his or her designee, taking into consideration the comments received during the public review process and shall either adopt the proposal, modify or reject it. If substantial modification is made, additional public review shall be conducted, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the office of the Director of Environmental Services .
 4. Notwithstanding paragraphs 2 and 3 of this Section, an interim rule may be adopted without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.
- D.** City decisions to grant or deny discharges to a City stormwater or drainage system, may be appealed under procedures detailed in the associated administrative rules packages.

17.39.030 General Discharge Prohibitions.

(Amended by Ordinance Nos. 180037 and 182144, effective September 26, 2008.)

- A.** It is unlawful to discharge into the City's municipal separated storm sewer systems as well as all other public drainage systems that convey, manage or dispose of stormwater flows except in compliance with this Chapter and the rules adopted hereunder.
- B.** Prohibited discharges. It is unlawful to discharge or cause to be discharged directly or indirectly into the City storm sewer system any of the following:

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1. Any discharge having a visible sheen;
2. Any discharge having a pH of less than 6.0 Standard Units (S.U.) or greater than 9.0 S.U., unless the divergence from these limits can be proven to occur from source rainfall pH fluctuations;
3. Any discharge that contains toxic chemicals in toxic concentrations;
4. Any refuse, rubbish, garbage, discarded or abandoned objects, articles, or accumulations or discharge that contains visible floating solids;
5. Any discharge that causes or may cause visible discoloration (including, but not limited to, dyes and inks) of the receiving waters;
6. Any heat discharge that causes damage to any element of the City's municipal separate storm sewer systems other public drainage systems that convey, manage or dispose of stormwater flows;
7. Any discharge that causes or may cause interference or damage to the City's municipal separate storm sewer systems or other public drainage systems that convey, manage or dispose of stormwater flows. Any new discharge which, when taken in combination with other existing or proposed discharges, exceeds the capacity of the public storm sewer systems or public drainage systems, as established by the Director, shall be deemed to interfere or damage such systems;
8. Any discharge that causes or may cause a nuisance or a hazard to the City's stormwater system, City personnel or the receiving waters.
9. Any batch discharges without written permission from the Director of Environmental Services. Batch discharges shall comply with all other requirements of this Chapter and rules adopted hereunder;
10. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion or be injurious in any other way to the operation of the sewer system, or waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius (using test methods prescribed at 40 CFR 261.21), or discharges which cause the atmosphere in any portion of the sewer system to reach a concentration of 10% or more of the Lower Explosive Limit (LEL);
11. Any process wastewater, unless it meets at least one of the provisions of section 17.39.030.C.;

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12. Any substance that causes the City to violate the terms of its Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) or Municipal Underground Injections Control (UIC) permits or instream water quality standard set by the State of Oregon.
- C. The following discharges are allowed unless they violate the standards, policies, and associated administrative rules used to implement this Title. In some cases the Director has set policies to redirect some of these discharges to the sanitary sewer at the time of new and redevelopment:
1. A discharge authorized by, and in full compliance with, an NPDES or other state water related discharge permit;
 2. A discharge or flow resulting from an emergency situation such as a water line break or fire fighting activities by a government fire department. Any repairs made after the period of emergency has ceased must comply with all regulations of this code;
 3. A discharge or flow from personal residential based activities such as car washing, lawn watering, or landscape irrigation;
 4. A discharge from a building related system such as footing / foundation drains, crawl space pumps, or air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
 5. A discharge or flow from naturalized areas such as diverted stream flows, natural springs, riparian habitat areas, wetlands, or other uncontaminated pumped or infiltrating storm water;
 6. A discharge from rising groundwater flows, infiltration, inflow or other uncontaminated pumped or infiltrating groundwater;
 7. Other discharge that is deemed by the Director to be de minimus or otherwise adequately controlled through other pollution control measures or agreements, such as water line flushing, reservoir and tank draining.

17.39.040 Discharge Limitations.

(Amended by Ordinance No. 180037, effective April 28, 2006.)

- A. It is unlawful for a discharger to discharge to the City's municipal separate storm sewer systems or other public drainage systems that convey, manage or dispose of stormwater flows in excess of the limitations established in the discharger's

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NPDES discharge permit, a discharge authorization or in violation of the prohibited discharges in Section 17.39.030. The Director may establish specific discharge limitations under separate rules to meet the objectives of this Chapter.

- B.** Notwithstanding prior acceptance to the City's municipal separate storm sewer systems or other public drainage systems that convey, manage or dispose or stormwater flows under this Chapter, if the Director finds that a discharge from a particular industrial occupancy or class of occupancies is in violation of 17.39.030, the Director may limit the characteristics or volume of the discharge accepted under this Chapter or may terminate acceptance. Notice of termination or limitation shall be given in writing to the occupant of the property involved or by posting such notice on the property involved and shall specify the date when the limitation or termination is to become effective. It is unlawful for any person to discharge or permit the discharge of stormwater in violation of this notice.

17.39.045 Control of Illicit Discharges

(Added by Ordinance No. 180037; amended by Ordinance No. 182144, effective September 26, 2008.)

- A.** Notifications. Property owners are responsible for notifying the appropriate regulatory agencies under the following conditions:
- 1.** Illicit Connections. Within seventy-two hours after discovering an illicit connection, owners shall notify the Bureau of Environmental Services of the illicit connection. The applicant will negotiate an appropriate time frame with BES for submittal of a permit application with the City's Plumbing Division to correct the illicit connection.
 - 2.** Spills. Any person becoming aware of spills or uncontrolled discharge substances prohibited under Section 17.39.030 directly or indirectly into the City's municipal separate storm sewer systems or other public drainage systems that convey, manage or dispose or stormwater flows, or any component thereof, or onto driveways, sidewalks, parking lots or other areas draining to public stormwater management facilities or right's-of-way; shall:
 - a.** Immediately upon discovery report such discharge by phone to BES and DEQ and to any other authorities required under other local, state or federal laws or regulations. Reports shall include:
 - (1)** A description of the material discharged; and
 - (2)** The estimated amount of material discharged; and

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- (3) The estimated discharge point into the City sewer; and
 - (4) Steps being taken to immediately cease and control the spill as well as eliminate and prevent recurrence of the discharge; and
 - (5) Contact information, including phone number, of a responsible party who owns or has control over any spilled or released material who may be contacted for additional information.
 - b. The City reserves the right to require a follow up written report about the incident. Such a written report shall describe the elements covered in subsection a. above.
3. Non-stormwater discharges allowed under 17.39.030.C need not be reported.
- B. Impact Assessment, Control and Clean Up. The discharger shall take all necessary steps to ensure the discovery, containment and clean up of any materials release to the City systems described in A.2. above as soon as possible after discovery. The discharger shall take all reasonable steps to minimize any adverse impact to the City sewer system, treatment facilities or any waters of the state, including such activities as accelerated or additional monitoring as necessary to determine the nature and impact of the discharge. If the discharger is absent, the property owner shall be responsible for compliance with this section.

17.39.050 Discharge Permits.

(Amended by Ordinance Nos. 180037 and 182144, effective September 26, 2008.)

- A. The City may require the following permits prior to allowing discharges to the City's separate storm sewer system:
 1. An NPDES storm water discharge permit for facilities listed under OAR 340-041-0007 and the federal Standard Industrial Class codes associated with the Clean Water Act.
 2. Other discharge permits administered by the Oregon Department of Environmental Quality that may be discharged to a City storm sewer or drainage system.
 3. Other facilities with discharges that trigger the prohibitions of 17.39.030 on their sites may be required to obtain a City of Portland Discharge Permit or Authorization for their discharge.

B. Existing and New Source Dischargers.

1. Industrial NPDES Stormwater Discharge Permits

- a.** Any discharger with a discharge to the separate storm sewer system may be required to submit an application for an NPDES stormwater permit to DEQ. The City may act as a DEQ authorized representative in accepting permit applications for submittal to DEQ.
- b.** Dischargers who are required to obtain an NPDES stormwater permit and who continue to discharge without a permit during the permit application process, shall comply with the requirements of this Chapter and the rules adopted hereunder.
- c.** A new source discharge facility shall obtain an NPDES stormwater permit before discharging to the separate storm sewer system, if required. At his or her discretion, the Director may require dischargers who are not required to obtain an NPDES stormwater permit to obtain a stormwater discharge permit from the City, if a discharge presents a threat to the system or the receiving waters.

2. Discharge Authorizations

- a.** Any new source identified or constructed within the City of Portland shall undergo a Source Control review and may be required to implement certain site controls as required by administrative rule. Education and technical assistance materials may be provided to assist dischargers.
- b.** Sites under an authorization will be required to track compliance efforts and make those records available to City inspectors.

17.39.060 Inspection and Sampling

(Amended by Ordinance Nos. 180037 and 182144, effective September 26, 2008.)

A. Inspection

- 1.** Authorized City representatives may inspect the facilities of any discharger to any City sewer or drainage system to determine compliance with the requirements of this Chapter. The discharger shall allow the City or an authorized representative to enter upon the premises of the discharger for the purposes of inspection, sampling, photographic

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documentation or record examination and copying. The City shall also have the right to install on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and metering operations.

2. Conditions for entry.

- a.** The authorized City representative shall present appropriate credentials at the time of entry.
- b.** The purpose of the entry shall be for inspection, observation, measurement, sampling, testing, photographic documentation, or record examination and copying in accordance with the provisions of this Chapter.
- c.** Any entry shall be made at reasonable times during normal operating hours unless an emergency situation exists as determined by the Director.
- d.** The City shall comply with all regular safety and sanitary requirements of the facility or site to be inspected. The discharger shall provide the City with any facility or site-specific safety requirements.

B. Sampling.

- 1.** The City may require the discharger to sample any proposed or existing discharge to ascertain whether such discharge is approvable given the prohibited discharges criteria listed in Section 17.39.030 above.
- 2.** Samples collected for compliance monitoring shall be representative of the discharge and shall comply with the requirements specified in the individual site permit or authorization. Sampling locations for each point of discharge are required by the NPDES permit or may be required by a Discharge Authorization. The sampling and testing shall be in accordance with 40 CFR Part 136.
- 3.** Samples taken by City personnel for the purpose of determining compliance with the requirements of this Chapter or rules adopted hereunder may be split with the discharger if requested before the time of sampling.
- 4.** Sampling manhole or access. The Director may require a discharger to install and maintain at the discharger's expense a suitable manhole or

sampling facility at the discharger's facility or other suitable monitoring access to allow observation, sampling and measurement of all discharges into City separate storm sewer systems or other public drainage systems that convey, manage or dispose of stormwater flows. The manhole shall be constructed in accordance with plans approved by the Director and shall be designed so that flow measurement and sampling equipment can be installed. Access to the manhole or monitoring access shall be available to City representatives at all times.

17.39.070 Reporting Requirements.

(Amended by Ordinance Nos. 180037 and 182144, effective September 26, 2008.)

A. Periodic Compliance Reports.

1. Any facility that discharges to the City's stormwater system may be required to submit reports to the City. Monitoring reports may include evaluations of site conditions, visual observations of discharges, discharge sampling results, summary of operational and maintenance activities, or other information as requested by the Director. The City may accept monitoring reports required by state mandated NPDES permits to meet City reporting requirements.
2. The Director may require reporting by dischargers to City municipal separate stormwater systems or other public drainage systems that convey, manage or dispose of stormwater flows, where an NPDES permit is not required, to provide information to the City. This information may include any data necessary to characterize the discharge.

B. Fraud and False Statements. Any reports required by this Chapter or rules adopted hereunder and any other documents required by the City to be submitted or maintained by the Discharger shall be subject to the enforcement provisions of this Chapter and any other applicable local and State laws and regulations pertaining to fraud and false statements. Additionally, the discharger shall be subject to the provisions of 18 U.S. Code Section 1001 relating to fraud and false statements and the provisions of Section 309 of the Clean Water Act, as amended, governing false statements and responsible corporate officials.

C. Notification of Violation. A discharger shall report noncompliance with permit conditions to the City within 24 hours of becoming aware of noncompliance.

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17.39.080 Stormwater Pollution Control Plan (SWPCP).

(Amended by Ordinance No. 180037, effective April 28, 2006.)

- A.** A discharger to the City of Portland's system may be required to prepare a Storm Water Pollution Control Plan (SWPCP). If a SWPCP is developed for other purposes, for example an NPDES permit, it may be submitted to fulfill these requirements. Minimum requirements for the content of the SWPCP are contained in the appropriate permit and/or in the Stormwater Discharge Administrative Rules.
- B.** Dischargers are required to eliminate or control direct or indirect connections or entry points that could allow spills or uncontrolled discharges of hazardous or toxic substances or substances prohibited under Section 17.39.030 to enter the City's system. As a condition of continued authorization to discharge to the City storm sewer system, the Director may require a discharger to:

 - 1.** Install or modify equipment or make other necessary changes to prevent such discharges, and
 - 2.** Submit a schedule of compliance to the Director for approval to achieve timely completion of the required actions and specifying a method for assessment and adaptive management of the Plan. Violation of the schedule without an extension of time by the Director is a violation of this Chapter.
- C.** All permittees shall be required to comply with the terms and maintenance conditions specified in their SWPCP and the appropriate permit or authorization.

17.39.090 Accidental Spill Prevention and Control.

(Amended by Ordinance No. 180037, effective April 28, 2006.) Accidental Spill Prevention Plans. Dischargers who are not required to obtain an NPDES stormwater permit but who handle, store or use hazardous or toxic substances or substances prohibited under 17.39.030 on their sites may be required to prepare and submit to the Director an Accidental Spill Prevention Plan, according to the requirements set out in rules adopted pursuant to this Chapter, within 60 days of notification by the Director. If an Accidental Spill Prevention and Control or similar plan is required by other law or regulation, that plan will satisfy this requirement. The Accidental Spill Prevention and Control Plan may be combined with or stand as part of the SWPCP required by 17.39.080.

17.39.100 Records Retention.

(Amended by Ordinance No. 180037, effective April 28, 2006.) All dischargers subject to this Chapter shall maintain and preserve for no fewer than 5 years any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof,

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relating to monitoring, sampling and chemical analysis made by or in behalf of the discharger in connection with its discharge. All records which pertain to matters which are the subject of any enforcement or litigation activities brought by the City pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

17.39.110 Enforcement.

(Amended by Ordinance Nos. 180037 and 182144, effective September 26, 2008.) Dischargers that fail to comply with the requirements of this Chapter and the rules adopted hereunder may be subject to enforcement actions by the Director of Environmental Services.

- A. Violations.** BES may use escalating enforcement to obtain compliance with a rule promulgated pursuant to this Chapter, or Discharge Authorization. Notice of violation may be given orally or in writing to a responsible party.
1. A violation shall have occurred when any requirement of this Chapter or rules adopted hereunder has not been met, or when any condition of a permit or agreement issued under the authority of this Chapter or the rules adopted hereunder is not met.
 2. Each day a violation occurs or continues shall be considered a separate violation.
 3. For violations of discharge limits, each parameter that exceeds a discharge limit shall be considered a separate violation except as provided elsewhere in this Chapter or the rules adopted hereunder.
 4. Oral notice may be provided to alleged violators to clearly state the provisions of this Chapter or associated administrative rules that have been violated and discuss potential remedies for the violations. Continued non-compliance, shall result in escalating enforcement as described in section 17.39.110.B.
- B. Enforcement Mechanisms.** If BES determines that a violation has occurred or is imminent, BES may offer technical assistance and education to the responsible party to correct or prevent the violation. In enforcing any of the requirements of this Chapter or the rules adopted hereunder, the Director of Environmental Services, or a duly authorized representative, may:
1. Provide written notice of violation and correction notice.
 2. Post a Stop Work order,

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3. Require Permit, Authorization and/or new system connection to control a discharge
 4. Require Administrative BES Review
 5. Institute civil actions or notify appropriate authorities of possible criminal violations as set out in rules adopted under this Chapter;
 6. Take other action as the Director of Environmental Services in the exercise of his or her discretion, deems appropriate.
- C.** Voluntary Compliance Agreement. In lieu of escalating enforcement, BES and the discharger may enter into a voluntary compliance agreement to correct the violation. Such agreements will include specific action to be taken by the responsible party to correct the noncompliance on a schedule specified by the agreement.
- D.** Civil Penalties. Violations of this Chapter or rules adopted hereunder may result in the assessment of civil penalties in amount up to \$5000 per day per violation. All civil penalties shall be deposited with the City Treasurer. Failure to pay a civil penalty within 30 days following a final determination regarding the penalty is grounds for termination of the permittee's discharge. Civil penalties may be appealed to the City's Code Hearings Officer. Penalties shall accrue interest and other charges until the penalty is paid in full.
- E.** Permit or Authorization Termination or Prevention of a Discharge.
1. Notwithstanding any other provision of this Chapter, the Director of Environmental Services may terminate a City-issued discharge permit or authorization or otherwise prevent a discharge into the City's municipal separate storm sewer systems or other public drainage systems that convey, manage or dispose of stormwater flows if:
 - a. The discharge or threatened discharge presents or may present an endangerment to human health or the environment, or threatens to interfere with the operation of the City's municipal separate storm sewer systems or other public drainage systems that convey, manage or dispose of stormwater flows; or
 - b. The NPDES permit City stormwater discharge permit or authorization was obtained by misrepresentation of any material fact or lack of full disclosure; or

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- c. The discharger violates any requirement of this Chapter or its discharge permit or authorization; or
 - d. Such action is directed by a court of competent jurisdiction.
2. Notice of termination or prevention of discharge or permit revocation shall be provided to the discharger or posted on the subject property prior to terminating or preventing discharge.
 - a. In situations that do not represent an imminent danger to human health or the environment or an imminent threat of interference to the municipal separate storm sewer systems or other public drainage systems that convey, manage or dispose of stormwater flows, the notice shall be in writing, shall contain the reasons for the termination or prevention of discharge, the effective date, duration and the name, address and telephone number of a City contact, shall be signed by the Director, and shall be received at the business address of the discharger no fewer than 30 days prior to the effective date.
 - b. In situations where there is an imminent endangerment to human health, the environment or imminent threat of interference with the operations of the separate storm sewer system, the Director may immediately terminate an existing discharge or prevent a new discharge from commencing after providing informal notice to the discharger or after posting such notice on the subject property. Informal notice may be verbal or written and shall include the effective date and time and a brief description of the reason. Within 3 working days following the informal notice, a written formal notice as described in 17.39.100 D.2.a. shall be provided to the discharger.
3. The Director shall reinstate discharge privileges upon clear and convincing proof by the discharger of the elimination of the noncomplying discharge or conditions creating the threat of endangerment or interference as set forth in this Chapter.

F. Cost Recovery.

1. The Director may recover all reasonable costs incurred by the City which are attributable to or associated with violations of this Chapter, including but not limited to the costs of administration, investigation, sampling and monitoring, legal and enforcement activities, damage to or contamination of the separate storm sewer systems or other public drainage systems that

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convey, manage or dispose of stormwater flows or are part of the BES stormwater utility. BES may recover costs associated with remediation of a violation, contracts and health studies, and any fines and civil penalties assessed to the City that result from activities not in compliance with this Chapter or rules adopted hereunder. Liens may be imposed on the property or properties in accordance with the provisions of Chapter 22.06

2. All such costs shall be documented by the City and shall be served upon the discharger by certified or registered mail, return receipt requested. Such documentation shall itemize the costs the Director has determined are attributable to the violations.
3. Such costs are due and payable to the City of Portland Sewage Disposal Fund upon the receipt of the letter documenting such costs. All such costs shall be paid to the City Treasurer. Nonpayment or dispute regarding the amount shall be referred for appropriate action to the City Attorney. The City Attorney may initiate appropriate action against the discharger to recover costs under this Section.
4. The Director of Environmental Services may terminate a discharge for nonpayment of costs after 30 days notice to the discharger.

G. Nuisance Abatement. In cases of imminent danger to human health, property or the environment and continued non-compliance with City Code, BES may take corrective action on the site to remedy the imminent danger. BES may take whatever actions are necessary to remedy the violation and remove the threat to public health and safety. Any person responsible for pollutant discharge into any natural waters or stormwater systems, who fails to correct any prohibited condition or discontinue any prohibited activity, must pay the expenses incurred by the City in carrying out the nuisance abatement, including any expenses incurred in testing, measuring, sampling, collecting, removing, containing, treating, and disposing of the pollutant materials. All costs for such work shall be the sole responsibility of the violator and may be recovered in conformance with the BES cost recovery policy.

H. City not liable. Nothing in this Chapter shall be construed to confer liability on the City for any injury or damage resulting from the failure of responsible parties to comply with the provisions of this Chapter.

17.39.120 Conflict.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Chapter are hereby repealed to the extent of such inconsistency or conflict.

17.39.130 Severability.

If any provision, paragraph, word or Section of this Chapter or adopted hereunder is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections shall not be affected and shall continue in full force and effect.

17.39.140 Requests for Reconsideration.

A discharger may request from the Director of Environmental Services to reconsider any determination made under this Chapter if there is reason to believe that sufficient data or information is available to support a different determination. Any request for reconsideration shall be accompanied by the data and the information that the discharger used as a basis for the request. The Director of Environmental Services may then revise the initial determination based upon the submitted request.

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Figure 9 (Section 17.38.060)
(Repealed by Ordinance No. 182144,
effective September 26, 2008.)

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Figure 10 (Section 17.38.060)

(Repealed by Ordinance No. 182144,
effective September 26, 2008.)

TITLE 21 WATER

Chapter 21.04

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21.04.040	Backflow Prevention Assembly.
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Chapter 21.04

DEFINITIONS

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

Sections:

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21.04.030	Backflow Assembly Installation Requirements.
21.04.040	Backflow Prevention Assembly.
21.04.050	Base Charge.
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21.04.170	System Development Charge.
21.04.180	Volume Rates.
21.04.190	Water User Charges.
21.04.200	Wholesale Distributor.

21.04.010 Administrator.

For the purposes of this Code, Administrator refers to the person in charge of the Portland Water Bureau, or the Administrator's designee.

21.04.020 Applicant.

The party applying for water or water related services.

21.04.030 Backflow Assembly Installation Requirements.

Standards developed by the Bureau, consistent with the administrative rules of the State of Oregon, which guide the approval of backflow prevention assembly installation.

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21.04.040 Backflow Prevention Assembly.

An approved assembly which prevents water that has been delivered to a property from flowing back into the City water distribution system (premise isolation) or from reversal of flow within premise piping (point of hazard isolation).

21.04.050 Base Charge

A daily fixed charge. For fire line service, the charge will be based on the size of the metered connection.

21.04.060 Billing Period.

The time between two consecutive meter reading dates or such other time period used for billing purposes.

21.04.070 Bureau.

The Portland Water Bureau (Water Bureau or Bureau of Water Works), being the official agency of the City of Portland that supplies water to the City and administers the sale of water outside the City.

21.04.080 Chief Engineer.

The Chief Engineer is a Licensed Professional Engineer in charge of the Bureau engineering staff. The Chief Engineer, or the Chief Engineer's designee, is responsible for establishing, maintaining, and enforcing engineering and technical standards for design and construction of the water system.

21.04.090 Commissioner-in-Charge.

The elected member of the Portland City Council responsible for the supervision and control of the affairs and property of the Bureau, as authorized in Chapter 2 of The Charter of the City of Portland.

21.04.100 Distribution Mains.

Water pipelines located in streets, public ways, or private rights-of-way or easements which convey potable water to service connections and hydrants.

21.04.110 Main Extension.

The extension of water distribution mains beyond previously existing facilities.

21.04.120 Premises.

Integrated land area including improvements thereon undivided by public thoroughfares and under single or common ownership where all parts of the premises are operated under the same management.

21.04.130 Ratepayer.

Any party legally responsible for payment of water or water related service supplied by the Bureau in accordance with established rates and charges.

21.04.140 Rates.

The rates or amounts fixed by the annual water rate ordinance of the Portland City Council to be charged for water service supplied by the Bureau.

21.04.150 Service Branch.

An unused service pipe from the distribution main to the future meter location.

21.04.160 Service Connection.

The pipe or tubing, fittings, and valves necessary to conduct water from the distribution main to and through the meter and to the property line. Where the water service meter is on private property, service connection is the pipe or tubing, fittings, and valves necessary to conduct water from the distribution main to and through the meter and the angle meter coupling on service connections of 1-inch or less and through the downstream meter valve on service connections of more than 1-inch.

21.04.170 System Development Charge.

A charge imposed upon each new service connection and on increases in the size of old connections within the City limits.

21.04.180 Volume Rates.

A variable charge which appears on the water bill based on the amount of water used per 100 cubic feet, or fraction thereof.

21.04.190 Water User Charges

Charges billed to ratepayers for water usage, including but not limited to, water volume and base charges.

21.04.200 Wholesale Distributor.

Any water district, city, water company, association, or other agency that purchases water from the City on a wholesale basis for further distribution or sale.

TITLE 21 WATER

Chapter 21.08

EXTENSION OF WATER MAINS

Sections:

21.08.010	Location of Mains.
21.08.020	Distribution Main Extensions Inside City; Cost Sharing.
21.08.030	Fair Share Reimbursement.
21.08.040	Extending Distribution Mains Outside the City.
21.08.050	Adequate Mains Before Street Improvement.
21.08.060	Installation of Adequate Distribution Mains Inside the City.
21.08.070	Council Authorization for Laying Water Mains.

21.08.010 Location of Mains.

(Amended by Ordinance No. 181715, effective April 2, 2008.)

- A.** Water mains are to be installed within public right-of-ways. The Chief Engineer of the Portland Water Bureau may authorize construction of a public main within a private tract of land dedicated and utilized as a private street. The City shall be granted an easement of sufficient width, as determined by the Chief Engineer. The easement agreement shall be on a form approved by the Chief Engineer, and it shall allow 24-hour unobstructed access to operate and maintain the public water system within the private street. The Chief Engineer or the Administrator shall determine the necessity to cross private land with a public main.
- B.** Water main extensions shall be installed a minimum of 5 feet past the closest property line of the parcel to be served.
- C.** If the Chief Engineer determines that an application for water service cannot be met because there is no main or the mains are inadequate for the demands projected, the person denied service may apply for the construction or improvement of mains to allow the service. Upon such application, the Chief Engineer shall prepare a cost estimate for the work to be performed, using such cost factors as the Chief Engineer determines are accurate and appropriate for the job. In order to receive water service, the applicant is obligated to pay for the costs assessed by the Portland Water Bureau for water main or main extensions to provide adequate flow to the site, using the most direct route through the public right of way for the main to reach the desired site, as determined by the Chief Engineer.
- D.** The Portland Water Bureau retains the right to use a larger main than required to serve the applicant's demands (although, at a minimum, any applicant is

responsible for a main at least 6 inches in diameter) or an alternative route for the main. If the Portland Water Bureau installs a larger main or chooses an alternative route, the Portland Water Bureau shall assume the costs in excess of that required to serve the applicant's site using the most direct route in the public right of way and the size of main necessary for the applicant's demand.

21.08.020 Distribution Main Extensions Inside City; Cost Sharing.

(Amended by Ordinance Nos. 181715 and 182053, effective August 15, 2008.)

- A.** Except for purposes of improving an inadequate main as provided in Section 21.08.060 or if the Portland Water Bureau shares costs as provided herein, an applicant for a new or improved main shall pay the full costs of the new or improved main.
- B.** The Administrator of the Portland Water Bureau shall adopt by rule a methodology of cost sharing with applicants for the installation of new or improved water mains, main extensions, and fire hydrants installed by the Portland Water Bureau in the public right of way when the total cost of the project required for the applicant does not exceed \$125,000. In no case shall the Portland Water Bureau's share of these costs exceed 50% of the total cost of a project, or a maximum share of \$62,500, whichever is less. In developing the cost sharing methodology, the Administrator shall consider the following criteria:

 - 1.** Public and private benefit derived from proposed privately financed water system improvements
 - 2.** Rate impacts
 - 3.** Availability of Portland Water Bureau budgetary funds
- C.** Notwithstanding and in lieu of the cost sharing authorized by Section 21.08.020 B., if an applicant's request for a single new residential service of 1 inch or smaller is not granted due to inadequate capacity of a 4 inch main or smaller, the provisions of Section 21.08.060 shall apply to establish allocation of costs.
- D.** At the discretion of the Chief Engineer, the cost of the project or components of the project shall be offered to the applicant at either a set price or time and materials basis. The Portland Water Bureau shall accept a deposit of 20% of the estimated cost for preliminary engineering work, the balance due prior to actual construction. For projects accepted by the applicant on a time and materials basis, if the actual cost of the main or main extension and the laying thereof is greater than the estimated cost, the applicant shall pay the difference to the Portland Water Bureau. Payment shall be deposited to the Water Operating Fund and transferred to the Water Construction Fund. If the actual cost is less than the

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estimated cost, the excess shall be refunded to the applicant. In determining actual costs, allowance shall be made for overhead expenses in accordance with the provisions of the City Code and the Annual Water Rate Ordinance. Determination of the amount to be paid or refunded after construction of the main shall be made by the Administrator, subject to appeal to the City Council, and the decision of the Council shall be final.

- E.** In no case after a set price has been established shall refunds or additional charges for the installation be made except in those cases where changes have been made at the request of the applicant.
- F.** In all cases the size of mains and main extensions and the specifications for laying the same shall be determined by the Chief Engineer, and water mains and main extensions within the City shall be installed solely by the City, except as otherwise provided herein and shall be the property of the City.
- G.** The developer of a new residential subdivision within the City may petition the Chief Engineer for permission to construct water mains and appurtenances within the limits of the subdivision. Water mains may also be installed in private streets subject to prior approval of the Chief Engineer and subject to all conditions contained in this Title. However, the costs of all such mains and appurtenances in subdivisions and private streets shall be borne by the applicant, including but not limited to planning, design, plan review, construction, inspection and project management, and may not request cost sharing provided in Section 21.08.020 for the mains and appurtenances. Any water mains or appurtenances that are placed in public rights of way shall become the property of the Portland Water Bureau. The Portland Water Bureau shall connect the privately constructed water facilities to the public main. Costs of connection shall be borne by the applicant unless the connection cost is less than \$125,000, in which case the costs shall be shared under standards developed pursuant to Section 21.08.020 A.
- H.** The Administrator may adopt administrative rules and procedures necessary to carry out the provisions of this chapter.
- I.** The effective date of this Chapter is July 1, 2007. The provisions of Section 21.08.020 shall be applied retroactively to projects which did not include a city cost share and were accepted and paid for by the applicant after June 30, 2007.

21.08.030 Fair Share Reimbursement.

(Amended by Ordinance No. 181715, effective April 2, 2008.)

- A.** An applicant or applicants who pay for all or a portion of a new main or main extension may be reimbursed a portion of the cost of installation from other applicants who subsequently seek service from that main. To qualify for

reimbursement, the main must be within the City of Portland, the date of application for service must be within 10 years of the water main or main extension's installation date, and the property for which service is sought must not have been owned by the applicant who paid for the main or main extension.

- B.** If the Portland Water Bureau elects to cost share with the applicant under Section 21.08.020 in the cost of installation of new main or main extension, the applicant shall not qualify for any reimbursement.
- C.** When reimbursement is warranted, the Portland Water Bureau shall collect a pro rata share of the cost of the main installation from each customer who, within ten years of the main installation, subsequently connects to the main and make an equivalent reimbursement payment to the individual who paid for the main. Pro rata shares for payment by new customers and reimbursement shall be calculated as follows: The initial cost of main installation shall be divided by the total length of the main, in feet. The per-foot cost of the main shall then be multiplied by the frontage length of the new service applicant's property, in feet, times 50 % [(cost of installation divided by total length) X frontage X 0.50 = payment]. The required payment shall be reduced for depreciation at the rate of 2 1/2 % per year, computed from the date of the main installation to the date of application for service.

21.08.040 Extending Distribution Mains Outside the City

(Amended by Ordinance No. 182053, effective August 15, 2008.) Any person desiring a main extension outside the City may make written application for construction of a water main. The Chief Engineer may approve of the main extension if it does not unreasonably impair water supply or pressure to existing services, whether inside or outside the City, and cannot reasonably be served through any other supplier.

The Chief Engineer shall determine if the water main extension is to be designed and constructed by the City, or if permission is to be granted for private design and construction of the main. If privately constructed, the work shall conform to Portland Water Bureau specifications. Upon Bureau inspection and acceptance of the new water system, the Bureau shall make connection to the existing water system. After acceptance by the City, the water main extension shall become the property of the City.

If the Bureau is to lay the main extension, the applicant shall pay to the Bureau the estimated cost thereof prior to construction. The cost includes the cost of any bond or other security required by any subdivision of government having jurisdiction over the location of the main extension. If the actual cost, including overhead expenses computed in accordance with the provisions of the finance regulations of City Code exceeds the amount prepaid, the applicant shall pay the difference to the Bureau. If the actual cost computed as herein prescribed is less than the amount prepaid by the applicant, the difference shall be refunded. When the applicant requests a set price for such installation, the Bureau shall establish a price based on the estimated cost and in no case after a set

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price has been established shall refunds or additional charges for the installation be made except in those cases where changes have been made at the request of the applicant.

The City shall not be responsible for any change or enlargement of the main or main extension outside the City, and shall not be responsible for any portion of the cost of relaying or changing the main or main extension because of subsequent improvement of any public work.

Application for connection of property outside the City to City water main or main extension shall be deemed a waiver of any deficiency of supply, pressure, or any other inadequacies, whether attributable to prior or future connections or extensions, and shall be deemed a covenant that the applicant shall comply with all provisions of this Title and the rules and regulations of the Bureau and must have prior approval of the Portland City Council.

21.08.050 Adequate Mains Before Street Improvement.

(Amended by Ordinance No. 182053, effective August 15, 2008.) The Chief Engineer of the Portland Water Bureau may require that adequate water mains be installed in accordance with the provisions of this Title prior to street improvement.

21.08.060 Installation of Adequate Distribution Mains Inside the City.

(Amended by Ordinance No. 182053, effective August 15, 2008.) If a petition for a new residential service of 1 inch or smaller is not granted due to inadequate capacity of a 4 inch main or smaller, the applicant may wait until the main is enlarged by the City. If petitioner wants the main enlarged sooner than the City's timetable the petitioner may request that the City adjust the timetable and replace the main without delay. The Administrator together with the Chief Engineer will review this request. If the Administrator and Chief Engineer decide, in their discretion, to grant the request to enlarge the main, the petitioner shall pay a portion of the cost of enlarging the main. The Bureau will pay all remaining costs. The portion of the main paid by the City is sixty-five percent (65%) unless that figure is changed by the annual water rate ordinance. All requirements of Section 21.08.030 "Fair Share Reimbursement" will apply except that the full cost of the main will not be charged to the petitioner.

21.08.070 Council Authorization for Laying Water Mains.

(Amended by Ordinance No. 180917, effective May 26, 2007.) The Council or its administrative officers may cause to be laid or installed at City expense, whatever pipelines, extensions, enlargements at the time of initial main installation or subsequently, interconnections, pumps, tanks, reservoirs, dams, works, and appurtenances which are found by the Administrator and the Commissioner-In-Charge to be necessary, advantageous, or convenient. This shall not be deemed to confer any right or privilege upon any person or premises to have a water main laid at sole City expense. The portion of the cost of any main and the laying thereof installed to serve residential premises or area only, and laid after August 1, 1957, which is in excess of the cost of a 6 inch ductile iron main and the laying thereof, shall be deemed allocable to water supply. Such allocation shall be paid from the Water Construction Fund at City expense except

where Portland Fire & Rescue requires larger flows for fire protection requirements, those costs shall be at the applicant's expense.

Chapter 21.12

WATER SERVICES

Sections:

- 21.12.010 Service to Property Adjacent to Water Main.
- 21.12.020 Size of Service Connection.
- 21.12.030 Application for Installation or Removal of Water Service.
- 21.12.040 Cancellation of Application for Service.
- 21.12.050 Service Branch Installation and Removal.
- 21.12.060 New Service Where Change in Size or Relocation is Desired.
- 21.12.070 Separate Service.
- 21.12.080 Service to Property Partially Outside City.
- 21.12.090 Permit for Temporary Service.
- 21.12.100 Annual Fire Hydrant Permit.
- 21.12.110 Installation of Service Pipes from the Main to the Property Line.
- 21.12.120 Connections to the Water Service.
- 21.12.130 Service and Maintenance Responsibility.
- 21.12.140 Water Pressure at Service.
- 21.12.150 Damage through Pipes and Fixtures.
- 21.12.160 Bureau Authority to Disconnect a Property Due to Potential Damage to Water System or To Another Property's Facility.
- 21.12.170 Use of Private Water and City Water.
- 21.12.180 Disconnection of Service When Charges Have Not Been Paid.
- 21.12.190 Reactivation of Abandoned Service.
- 21.12.200 Leaking or Unused Services.
- 21.12.210 Master Metering of More Than One Water Service.
- 21.12.220 Fire Protection Service.
- 21.12.230 Permit and Report Required to Do Plumbing Work.
- 21.12.240 Service Location Change.
- 21.12.250 Location of Meters Inside City.
- 21.12.260 Water Service in Basements within the Public Right-of-Way.
- 21.12.270 Ownership of Meters.
- 21.12.280 Damaged Meters Owned by the City.
- 21.12.290 Meter Area and Access To Be Clear.
- 21.12.300 Shut Off Because of Defective Installation of Meters.
- 21.12.310 Authority for Testing and Repairing Meters.
- 21.12.320 Contamination of City Water Supply and Requirements for Backflow Protection.

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- 21.12.330 Approval and Release of Easements and Real Property.
- 21.12.340 Identification of Meter Readers and Inspectors.

21.12.010 Service to Property Adjacent to Water Main.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Property within the City and adjacent to a City water main may be served subject to the provisions of this Code, and the annual water rate ordinance.

To obtain water service, the service connection must be along the frontage of the property to be served and be adjacent to a public or private street in which there is a public water main. With the exceptions noted in this section, water service shall not be provided by means of an easement. With the approval of the Chief Engineer, water service may be provided from a main within an existing easement. The service must be within the easement and must be readily accessible for maintenance and meter reading. The Chief Engineer may approve of a water service within an easement across a separate parcel of land if the parcel the applicant desires to serve has no frontage along a public right-of-way. The applicant must provide a copy of the recorded easement at the time of application for service.

If application is made for service from a water main less than 6 inches in diameter, the connection shall be deemed temporary unless such main was designated as a permanent main. In any case, such connection shall not entitle the person or premises to have said main replaced with a larger main at City expense. The application for service from a 4-inch main or smaller shall be deemed a waiver of any deficiency of supply, pressure, or any other inadequacy, whether attributable to prior or future connections or extensions. The application shall be deemed a covenant that the applicant will comply with all the provisions of this Title and the rules and regulations of the Bureau.

Property outside the City, but adjacent to a City main, may be served with the approval of the Chief Engineer and the Administrator, subject to all the provisions of this Section and Chapter 21.28 Outside City Services and Wholesale Distributors. This service shall be a special contract service and not provided by the City as a common utility service, as described in Section 21.28.010 "Individual Water Services Outside the City."

21.12.020 Size of Service Connection.

Whenever an application for water service is received, the Administrator or the Chief Engineer shall have authority to reject such application if in the judgment of the Chief Engineer, the service and meter size applied for is expected to be less than or greater than the size necessary for estimated use by the premises of the applicant. In such event, the Administrator or the Chief Engineer shall specify the appropriate size of service line and size and type of meter. The service size as determined by the Chief Engineer shall not be a warranty of sufficiency for pressure or volume of water to be afforded the premises. No service connection less than 3/4-inch in size shall be installed. The installation of any required backflow prevention assembly may cause the pressure and or volume of water to be less than the distribution system is able to supply through a specific service. It is the

responsibility of the applicant to demonstrate that he or she has calculated the effect of installing required backflow prevention assemblies.

21.12.030 Application for Installation or Removal of Water Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) The property owner shall make written application for permits to connect with or disconnect premises from the City water system on forms provided by the Portland Water Bureau in which the applicant shall specify the location and the use for which the service is required, and shall agree to abide by the rules and regulations of the Bureau.

The applicant for all services 1 inch and larger shall submit the water flow requirements at the time of request. Applicants for smaller services shall provide water flow requirements when requested. The applicant for water service to commercial or industrial development shall submit a site utility plan at the time of the request that indicates the size and type of service required and the distance of the service to the nearest property line.

An application for a permit to connect premises with the City water system for service to a new building or structure shall not be accepted for filing unless a building permit has been issued for such building or structure as provided in the building regulations of the City. No permit shall be issued unless the conditions set forth in this Title relating to main extensions have been met, if applicable. Any permit issued to connect premises with the City water main shall not entitle the permittee to a connection to the main until it is laid adjacent to the premises of the owner. Acceptance of fee for the permit shall not waive any of the conditions set forth in this Title nor grant specific right of connection. Any service connection made outside the City limits must receive prior approval of the Portland City Council.

21.12.040 Cancellation of Application for Service.

An applicant may request in writing that an application for service be canceled up to the time that the service is installed. The Bureau will refund the application fee, except for any portion of the fee needed to cover Bureau costs for partial processing of the application or for actual work done on partial installation. The Bureau shall retain costs for any work already performed plus a 15 % fee for handling and overhead as a service charge. A service that has not been installed within 6 months of the date of application, at the direction of the applicant, shall be canceled and the fee less the accrued costs shall be returned to the applicant.

21.12.050 Service Branch Installation and Removal.

Service branches may be installed by the Bureau, or by a developer with the prior written approval of the Administrator or Chief Engineer, when the Administrator or Chief Engineer determines that such installation will benefit the City. See Section 21.16.160 "Service Installation Fees." If an application is not made for service within 5 years of branch installation, the Bureau may disconnect the service branch at the main. If service is requested after 5 years from date of installation, and has not previously been removed,

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the Water Bureau shall determine the condition of the service branch. The applicant shall pay for the cost of renewal of the service branch, if required.

21.12.060 New Service Where Change in Size or Relocation is Desired. (Replaced by Ordinance No. 182053, effective August 15, 2008.)

- A.** When a new smaller or larger sized service is desired at the same property and the Chief Engineer concurs that the requested size is appropriate:
 - 1.** For each new larger sized service, an old service will be removed without charge.
 - 2.** For a new smaller or same sized service, the charge to remove an old service is provided in the annual rate ordinance.
 - 3.** Charges to remove inactivated service branches larger than $\frac{3}{4}$ " are provided in the annual rate ordinance.
- B.** Charges to install the new services are provided in the annual rate ordinance.
- C.** If the Bureau has identified a service as being defective, a new service of the same or smaller size may be substituted at no charge to the applicant at the time the defective service is being replaced provided there is written authorization. However, if application for a larger service is received, the applicant will pay the difference between the two sizes, and credit for the System Development Charge (see Section 21.16.170 "System Development Charge") will be applied for cost of the meter for the service being removed as herein provided.
- D.** If service is relocated or changed in size, proper backflow protection must be installed as outlined in the Code Section 21.04.030 "Backflow Assembly Installation Requirements." The cost of backflow protection shall be the responsibility of the property owner.

21.12.070 Separate Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Unless otherwise provided in this section, a separate service shall be required to supply water to each separate parcel of land and to each house or building under separate ownership upon the same parcel. A parcel is considered separate when partitioned by a different ownership, street, or public way.

Unless otherwise provided hereunder, a separate service shall be required for each house or building even if under one ownership and on the same lot or parcel of land. A single service may be provided for multiple units under single ownership. A single service may be approved by the Chief Engineer for multiple units which are individually owned when there is a contract with the Portland Water Bureau specifying who shall be responsible for

all water bills and charges. Otherwise, multiple units which are individually owned must have a separate service to each unit.

The Bureau may limit the number of houses or buildings or the area of land under one ownership to be supplied by one service connection or meter.

Two or more houses or buildings under one ownership and on the same lot or parcel of land may be supplied through a single service meter, if approved by the Administrator or Chief Engineer. If the property on which the houses or buildings are located is divided by sale, a separate water service shall be obtained for each ownership prior to the sale.

Notwithstanding terms to the contrary in this section, a property owner may request, and the Chief Engineer may authorize, continuation of water service, through existing lines, to the owners of property divided by sale, if the divided parcels will continue to share use of existing water lines and mains, as they did prior to the sale and which were in compliance with the provisions of Title 21 at the time of the sale. Authorization will not be granted if there is a change in size or location of any of the existing water services.

In addition, the party requesting exemption from the standard requirement, described above, must provide the Administrator with a document that has been recorded, the purpose of which is to authorize all users of the common lines and mains to access those lines as necessary, for installation, maintenance and repair of the common system, said rights to run with the land.

The service connection to a parcel of land shall not be used to supply an adjoining parcel of a different owner, or to supply a separate parcel of the same owner for which proper application for service has not been made. When property provided with a service is subdivided, the service connection shall be considered as supplying the parcel of land which it directly enters. See Section 21.12.010 "Service to Property Adjacent to Water Main" for allowed location of water service.

21.12.080 Service to Property Partially Outside City.

Where service is requested for a property partially inside and partially outside of the City limits, service may be provided if the principal structure is on the portion of the property inside the City limits, and within the urban growth boundary of the City. Should other structures be in said portion of the property outside the City, the Bureau may provide service through separate services and meters and shall charge rates in accordance with outside City service. Such services shall be installed at the expense of the owner of the premises.

21.12.090 Permit for Temporary Service.

(Amended by Ordinance Nos. 180120 and 182053, effective August 15, 2008.) The Portland Water Bureau may issue a permit for a temporary water service to a site that has no long-term need of a permanent water service. Use of a temporary service shall not exceed one (1) year from the date of installation if it is a conventional metered service and ninety (90) days if supply is from a fire hydrant. The Portland Water Bureau may grant a one (1) year time extension, for a total maximum term of two (2) years from the date of installation of the conventional metered service for a government agency project

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which occurs within or adjacent to the City's right-of-way property and requires temporary irrigation service.

The permittee desiring temporary service shall make application to the Portland Water Bureau and shall declare the intended purpose of the service and shall specify the location of the service, the length of time needed, the volume of water required and the peak flow rate anticipated.

If temporary service is allowed, the Portland Water Bureau will install a service at the expense of the permittee, or allow the temporary use of a fire hydrant as a source of supply. If the Water Bureau installs a temporary service, the permittee shall utilize it as if it were a normal permanent service. If supply is from a fire hydrant, the permittee must continuously follow the established rules and regulations governing the use of a fire hydrant, as detailed in Section 21.24.020 "Fire Hydrants", as well as all city, state and federal rules, regulations, and guidelines governing the proper use and disposal of water. The permittee must meter or accurately gauge usage of water from a fire hydrant and report that usage to the Water Bureau. The permittee must not use water from another fire hydrant than specified in the permit without prior written approval of the Water Bureau. The permittee shall use water exclusively for the stated purpose of the permit and shall not allow others to utilize the permit to obtain water for any other purpose.

All temporary water services are required to have a minimum of a double check valve assembly installed for backflow protection. The backflow assembly must be installed at the service connection to the property. All costs associated with backflow prevention assemblies will be the responsibility of the owner or applicant.

21.12.100 Annual Fire Hydrant Permit.

The Water Bureau may, upon application, issue a permit for the use of fire hydrants as a source of water for commercial enterprises or governmental agencies that have continuous need of water at various locations throughout the City. Sufficient need must be shown to preclude obtaining water from a single permanent service. The permittee shall use water exclusively for the stated purpose of the permit and shall not allow others to utilize the permit to obtain water for any other purpose. Annual fire hydrant permits are renewed for the calendar year, beginning in January. The cost for an annual permit not issued in January shall be prorated. The cost for an annual permit is set in the annual water rate ordinance.

The permittee, and all employees who obtain water from fire hydrants, must continuously follow the rules and regulations governing the use of fire hydrants, as detailed in Section 21.24.020 "Fire Hydrants," as well as all city, state and federal rules, regulations, and guidelines governing the proper use and disposal of water. All water trucks used by the permittee must be inspected for proper backflow protection equipment every three (3) years by a Water Bureau Water Quality Inspector.

21.12.110 Installation of Service Pipes from the Main to the Property Line.

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Water Bureau shall perform all work for installation of a water service within the existing public right-of-way or within an easement except as detailed in Section 21.12.130 "Service

Maintenance Responsibility." The Chief Engineer and the Administrator may allow a developer to install all or part of a water service in a subdivision currently under construction. No work by others shall occur on a water service if the Water Bureau has accepted the main for operation and maintenance. Installation and maintenance of the water system on private property is regulated by Title 25, Plumbing Regulations, as administered by the Bureau of Development Services. Responsibilities for maintaining the water service are found in Section 21.12.130 "Service and Maintenance Responsibility."

21.12.120 Connections to the Water Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) No connections to the water service shall be made between the main and the property line if in a public street, or the easement line if in a private street or an easement, unless performed or authorized by the Chief Engineer. No hose connections for domestic use shall be allowed within the public or private street where the hose connections are accessible to the public.

21.12.130 Service and Maintenance Responsibility.

(Amended by Ordinance No. 182053, effective August 15, 2008.) This section clarifies whether it is the responsibility of the Portland Water Bureau or the property owner to maintain, repair, or replace sections of the water supply system. Responsibilities for installation are found in Section 21.12.110 "Installation of Service Pipes from the Main to the Property Line."

A. For domestic and irrigation services:

- 1.** If the connection is 1 inch or smaller, the Bureau is responsible for that section that is through the meter and the angle meter coupling. The property owner is responsible for that portion downstream from the angle meter coupling.
- 2.** If the connection is larger than 1 inch, the Bureau is responsible for that section that is through the meter and the meter valve. The property owner is responsible for that portion downstream from the meter valve.

B. For fire service, the Bureau is responsible for that section that is from the main through a valve between the curb and property line. The property owner is responsible for that portion downstream from the valve between the curb and property line. The property owner is responsible for the repair of any facilities within the public right-of-way that are damaged as a part of his or her maintenance or repair work.

When a service pipe at the proper grade is damaged or destroyed by contractors or others in the performance of street work or where service pipes are damaged by electrolysis, the person, contractor, or company responsible for such damage or destruction shall be billed

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by the Portland Water Bureau for the cost of repairing or replacing such pipes on the basis of the cost plus overhead, as provided in the finance regulations of Title 5 of the City Code.

21.12.140 Water Pressure at Service.

(Amended by Ordinance Nos. 176955 and 182053, effective August 15, 2008.) The Portland Water Bureau's goal is to provide water pressure to the property line in the range of 40 pounds per square inch (psi) to 110 psi. The State of Oregon Department of Human Services rules dictate that a water service must provide a minimum of 20 psi at the meter. Pumps, elevated reservoirs and tanks and pressure reducing valves are utilized to provide pressure in the range of 40 psi to 110 psi where possible or practical. The Bureau of Development Services, Plumbing Division, through Title 25 of the City Code, regulates pressure on private property and requires a pressure reducing device for on-site domestic water systems that receive water at greater than 80 psi.

If the pressure to the service is within the range of 20 psi to 40 psi, the water user may choose to install a booster pump system on the premises to improve the working of the private plumbing system. The property owner or ratepayer is responsible for the installation, operation and maintenance of any pressure boosting system. The addition of a booster pump will require an appropriate backflow prevention assembly be installed on the water service, on private property, and directly adjacent to the property line, as required by City Code Section 21.12.320.

The Portland Water Bureau does not guarantee that water can be provided continuously at a particular pressure or rate of flow. Varying demands on the system and the requirement to change operations affect the flow and pressure available to the service.

21.12.150 Damage through Pipes and Fixtures.

(Amended by Ordinance No. 182053, effective August 15, 2008.) The Portland Water Bureau shall in no case be liable for damages caused by water running from open or faulty fixtures or pipes installed by the property owner.

21.12.160 Bureau Authority to Disconnect a Property Due to Potential Damage to Water System or To Another Property's Facility.

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

- A.** The Portland Water Bureau may disconnect a property if it determines that the operation, location or configuration of the facilities or the meter used to provide service
 - 1.** poses a hazard to the City system or City employees or to the system or facilities of other properties;
 - 2.** causes pressure surges; or

3. creates other hazards that are detrimental to operating the City water system or the water system or facilities of another property.
- B.** If the Bureau determines that such operations present a significant hazard, the property may be disconnected without prior notice. The Bureau will notify the property owner or ratepayer of the disconnection as soon as is reasonably possible and explain the necessity of the action taken. Before the water service is reconnected, the property owner must provide the Bureau assurance that changes have been made that will preclude a recurrence of the hazardous condition.
- C.** Where a hazard exists, but potential damage is not judged to be imminent, the Bureau shall give the property owner prior notice of the intent to disconnect. The Bureau shall state the reason for the disconnection, and offer an opportunity to be heard on why the operation is not detrimental or hazardous.

21.12.170 Use of Private Water and City Water.

Owners of buildings desiring to use both the City water supply and a supply of water other than that furnished by the Bureau may obtain water service only upon the following conditions. An approved backflow prevention assembly must be installed on the service connection to the premises as outlined in the Bureau's "Backflow Assembly Installation Requirements." If water from a supply other than that provided by the Bureau is found without proper backflow protection the City water supply to the premises shall be immediately shut off with or without notice. In case of such discontinuance, service shall not be reestablished until satisfactory proof is furnished that the cross connection, or potential cross connection has been completely and permanently eliminated or that an approved backflow prevention assembly commensurate to the degree of hazard has been installed on the service connection to the premises, and the assembly has been inspected, tested, and registered with the Bureau.

21.12.180 Disconnection of Service When Charges Have Not Been Paid.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.) The Bureau may disconnect a water service at the meter when base charges are not paid. If base charges are not paid for a period of one (1) year, the Bureau will consider the service abandoned and may disconnect the service at the main. The Bureau may disconnect a leaking service at the main sooner than 1 year if payment has not been made.

21.12.190 Reactivation of Abandoned Service.

(Amended by Ordinance Nos. 179978, 180120 and 182053, effective August 15, 2008.) A property owner may apply to the Portland Water Bureau to reactivate an abandoned service where the meter has not been removed pursuant to Section 21.12.180 "Disconnection of Service When Charges Have Not Been Paid." Existing pipe and connections may be used if the Bureau determines them to be in sound condition and adequate for the intended use. The Bureau may require installation of a backflow prevention assembly on reactivated services.

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The applicant shall pay for replacement of the existing piping and/or connection if the piping and/or connection is unfit for use and base charges have not been continuously paid. The applicant shall pay the full installation fee if the service is desired at a different location than existing or if they desire a service that requires a larger pipe and connection. The applicant must pay the current service activation fee to reinstall a meter on the service.

21.12.200 Leaking or Unused Services.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Where there is a leak within the public right-of-way or within a Water Bureau easement between the main and the meter of a domestic service, or between the main and the valve behind the curb of a fire service, the Bureau shall make all repairs free of charge. However, if the leak is on a service for which the base charge or other charges are not being paid, the Bureau will cut out the service at the main. Where a water service pipe has been disconnected from the main, the owner of the premises previously serviced shall obtain a new permit and pay for a new service connection whenever a water service is desired. Services replaced because of leaks shall be renewed in the same size as the service removed, subject to the provisions which allow a property owner to request a change of service size (see Section 21.12.060 "New Service Where Change in Size or Relocation is Desired.") The Water Bureau may require the installation of an approved backflow prevention assembly when this new service is approved.

21.12.210 Master Metering of More Than One Water Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Upon approval by the Chief Engineer, the Portland Water Bureau may permit the master metering of more than one water service. In such case, the owners or occupants of the premises served shall designate one of their number who shall, through written agreement with the Bureau, be responsible for the payment of all water charges and the acceptance of service of all water related notices. This person shall be liable for all water related charges until the agreement is terminated or a written agreement is established with another party. In the event payment for water charges is not made in full when due, the Bureau may terminate the service pursuant to normal procedures, in spite of the tender of partial payment by any other owner or occupant of the premises so served.

21.12.220 Fire Protection Service.

(Amended by Ordinance Nos. 180120 and 182053, effective August 15, 2008.) Water through a fire service shall be used only to extinguish a fire on the inside and the outside of the structure(s) that it serves and to test the fire system. A fire service is specifically not to be used for domestic, maintenance, or irrigation purposes. The Portland Water Bureau shall install and maintain a meter for a fire service of less than 2 inch. A fire service 2 inch and larger that supplies only a fire system shall be equipped with a detector metering device that is part of the backflow prevention assembly. This assembly shall be installed and maintained by the property owner. In addition, the Bureau shall install and maintain a metering device on a fire service that has

private on-site fire hydrants, hose systems or other appurtenances that would allow the unauthorized use of water through the fire system for purposes other than to extinguish a fire. A service that supplies water for multiple needs, such as for domestic use and for fire suppression, shall be fully metered and shall comply with the requirements of Section 21.12.030 "Application for Installation or Removal of Water Service."

Backflow protection which complies with Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection" is required on all fire services. All costs associated with providing backflow protection are the responsibility of the property owner.

To avoid unauthorized use of a fire protection system the Bureau will require the owner to install an approved full-flow meter under the following conditions:

- A. The existing detector metering device registers use of water for purposes other than to extinguish a fire or to test the system, or;
- B. Connections have been added to a system provided with a detector meter or detector double check valve assembly.

When full-flow metering is required because of unauthorized use, the Bureau shall charge the property owner or ratepayer for installing the meter, the meter vault, and shall assess a system development charge based on the size of the service. The Bureau policy for additional charges for unauthorized use of water from a fire protection system is established in Section 21.16.200 "Charges for Unauthorized Use of Fire Protection Services."

21.12.230 Permit and Report Required to Do Plumbing Work.

(Amended by Ordinance No. 176955, effective October 9, 2002.) It is unlawful for any plumber or other person to make connections, installations, replacements, extensions, or repairs to any City water service pipe, or to connect one service pipe with another service pipe, or extend a pipe from one building to another building, or to turn water on or off at any premises without having first obtained permission in writing from the Administrator or Chief Engineer. Such changes may require the installation of an approved backflow prevention assembly, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection." After the issuance of a permit to a plumber or other person authorized by the plumbing inspector to do plumbing work, the permittee shall make a report in writing to the Plumbing Division of the Bureau of Development Services of all connections, attachments, and extensions made in accordance with the permit within 3 days after completion of work.

21.12.240 Service Location Change.

When the service connection of any premises does not come from the main in front of the premises, the Bureau shall, when a main is laid in front of said premises, after notifying the owner or tenant thereof, provide a service connection to the new main without charge and at the same time, cut the old service connection. The property owner shall be

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responsible for the building connection to the new service. When services are relocated the Bureau may require installation of backflow protection, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection."

21.12.250 Location of Meters Inside City.

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

- A.** Within the City, the water meter shall be located in or adjacent to street area where the Bureau fixes such location, except where a City water main is already located in an easement upon private property. For service within easements the Bureau may allow location of a water meter on or adjacent to such existing line, if necessary easements for the meter installation are offered to and accepted by the City.
- B.** Unless this requirement is waived in a particular circumstance in the discretion of the Chief Engineer, and except as provided in City Code Section 21.12.260, all water meters must be outside any buildings on the premises and must be safely accessible by Water Bureau staff 24 hours a day for reading, testing, servicing, or replacement.

21.12.260 Water Service in Basements within the Public Right-of-Way.

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

- A.** A metered water service and associated piping and equipment installed within a building's basement that extends into the public right-of-way must be enclosed to prevent damage to the building and its contents. The owner of the property served, at the owner's expense, shall fabricate and install a waterproof vault that encloses the entire water service from the wall penetration to the backside of the meter assembly and separates it from other premises infrastructure, such as electrical panels, wires, and equipment.
- B.** If a metered water service and associated piping and equipment installed within a building's basement that extends into the public right-of-way is found to exist without the proper waterproof vault, the Chief Engineer will notify the property owner of the requirements described in this Section. The property owner is responsible for having the vault designed and installed within the time allowed by the Chief Engineer. The Chief Engineer may allow additional time for the installation for extenuating circumstances and may, in his discretion, require a waiver and indemnity as provided in Subsection D. below, in return for the grant of additional time. If the property owner does not have the vault installed within the time allowed by the Chief Engineer, the Chief Engineer will deem that a hazard exists and service to the property may be disconnected as provided in Section 21.12.160.

- C. The owner must provide the waterproof vault's design plans for review and acceptance by the Chief Engineer of the Portland Water Bureau. The vault shall be designed and installed according to the Portland Water Bureau requirements so that Portland Water Bureau staff may safely access the meter and associated equipment 24 hours a day and so that the meter and associated equipment can be read, tested, serviced, and removed from the sidewalk area above. The vault shall be designed and installed to support the meter assembly and the full weight of water that may fill the vault. At the owner's expense, the Portland Water Bureau shall furnish a frame and cover for the meter vault, which will be installed by the owner. The vault shall be constructed of material that resists corrosion or be protected by a corrosion resistant coating. The owner shall be responsible for the integrity of the vault and shall maintain it to keep it free of corrosion and in a clean condition. The owner shall provide a penetration through the outside basement wall for installation of the service and shall seal the opening after installation of the pipe. The owner shall seal all openings of the vault except those leading to the sidewalk area.
- D. Except in cases of new services, the owner of the property together with affected lessees, if any, as an alternative to compliance with this Section, may execute for the benefit of the City an agreement, in a form satisfactory to the Chief Engineer and City Attorney,
 - 1. waiving any claim for damages for personal injury or property damage against the City and its officers, agents, and employees arising out of non-compliance with the requirements of this Section and
 - 2. defending and holding harmless the City and its officers, agents, and employees against any claim by any person for damages for personal injury or property damage arising out of non-compliance with the requirements of this Section.

21.12.270 Ownership of Meters.

(Amended by Ordinance Nos. 180120 and 182053, effective August 15, 2008.) All new services will have meters provided and installed by the Bureau; except sewer meters, commercial, domestic and irrigation submeters, and as provided for fire protection in Section 21.12.220 "Fire Protection Service." The cost of the meters plus installation shall be charged to the property owner requesting the new service. The new meters shall be owned by the Bureau. The Bureau shall assume all repair, maintenance, and future replacement responsibilities for the new meters. Where private meters exist, that are used by the Water Bureau for billing purposes, the Bureau shall perform all future repair, maintenance, and replacement work at no charge to the owners. If the private meter is determined to be obsolete, the Bureau shall replace the privately owned meter with a new Bureau-owned meter at no charge to the owner. The Bureau shall assume all

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responsibility for the cost of future meter repair or replacement. As outside areas are annexed to the City, privately owned meters that are used by the Portland Water Bureau for billing purposes shall be repaired or replaced on an as-needed basis with new Bureau-owned meters at no expense to the owner. All annexed services will be required to meet the backflow protection requirements, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection." All costs of adding backflow protection shall be the responsibility of the property owner.

21.12.280 Damaged Meters Owned by the City.

Whenever a meter owned by the City is damaged by hot water or damaged by the carelessness or negligence of the owner or occupant of the premises, or others, the Bureau will repair the meter and charge the bill against the property served or to the person or persons responsible for the damage. The cost of the repairs shall be as prescribed in the annual water rate ordinance.

21.12.290 Meter Area and Access To Be Clear.

Bureau personnel must have access to read and maintain water meters. It is unlawful to block meter access. It is unlawful for any person to store or maintain any goods, merchandise, material, or refuse, or install equipment over, under, or within 6-feet of any water meter, gate valve, or other appliance in use on any water meter connection of the Bureau. It is unlawful to park a motor vehicle over, upon, or in such a manner as to prevent access to any water meter, gate valve, or other appliance in use on any water meter connection of the Bureau regardless of whether such Bureau property is located on public or private property. Whenever it is necessary to enter a building to read the meter or work on the water connections, a safe passageway must be maintained by the occupant of the premises, free and clear of obstructions from the entrance of the building to the meter. Shrubs and landscaping shall not obstruct reading of the meter. Any obstructions may be trimmed or removed by the Bureau, and the owner or occupant and the premises may be charged as prescribed in the finance regulations, Title 5 of the Portland City Code.

21.12.300 Shut Off Because of Defective Installation of Meters.

Whenever water meters inside the City are found by the Bureau to be without adequate support, or with defective plumbing, or without shut-off equipment necessary to permit meter tests by the Bureau, or where through earth movements or subsidence, pipe bends, or connections have become faulty or are not tight, then the Bureau shall notify the owner to remedy the condition within 10 days from the date of notification. Where the notice has been given specifying the repairs or alterations to be done, then if the repairs or alterations are not completed within the time allowed, the water service shall be shut off until the repairs or alterations are completed. The Administrator may allow additional time for completion of repairs or alterations for extenuating circumstances.

21.12.310 Authority for Testing and Repairing Meters.

The Bureau may test and/or repair any meter on services supplied directly or indirectly by the Bureau at any time without application from the property owner and for this purpose may upon notice temporarily shut off the water. If a meter which is larger than 1 inch on City lines requires repairs, the Bureau shall give notice to the property owner or user and immediately place said meter in good working order. If the meter is not repairable due to wear, obsolescence or parts that are not available, the Bureau will replace the meter in accord with Section 21.12.270 "Ownership of Meters."

21.12.320 Contamination of the City Water Supply and Requirements for Backflow Protection.

(Amended by Ordinance Nos. 180120 and 182053, effective August 15, 2008.)

- A.** Contamination of the City Water Supply. Except as required for operation of the water system, it is unlawful for any person to introduce or permit the introduction of any substance or pollution or contamination of any kind into the City water supply system. As to the reservoir portion of the City water supply system, also see PCC 14A.30.150 Misuse of Reservoirs.
- B.** Backflow Protection. Property owners or users of City water may be required to install backflow protection in order to protect the water supply system.
 - 1.** Authority to Require Backflow Protection. Oregon State Administrative Rules Chapter 333 (OAR 333) require water suppliers to "undertake programs for controlling, and eliminating cross-connections." These programs are for the purpose of preventing pollution and contamination resulting from inadequate backflow protection. These State regulations apply to "Community Water Systems" which include the City of Portland's water system. Through this section the Bureau adopts by reference OAR 333. The Bureau's detailed requirements are found in the document entitled "Backflow Assembly Installation Requirements" and is available from the Bureau. Backflow prevention assemblies are approved for use in Oregon by the State of Oregon (see "Approved Backflow Prevention Assembly List" available from the Bureau and the State of Oregon). As required by OAR 333, the Bureau shall require an approved backflow prevention assembly when the Bureau determines that: a complete physical separation from the City water system is not practicable or necessary; adequate inspection for cross-connection cannot be readily made; or there exists a possibility of backflow contamination resulting from special conditions, use, or equipment. The Bureau may require an approved backflow prevention assembly to be installed for new construction, where buildings or structures are remodeled, or where tenant improvements are made.

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2. Requirements for Testing Assemblies and Maintaining Backflow Protection. All assemblies must be tested immediately after installation or if the assembly is moved or repaired. Assemblies must also be tested at least once a year, on a schedule to be determined by the Bureau, or more frequently as determined necessary by the Bureau to provide adequate backflow protection. Tests shall be performed by a tester who is certified by the State of Oregon. Copies of the test results shall be provided to the water user or the owner of the premises and to the Bureau. Backflow prevention assemblies which are not functioning properly shall be repaired promptly and retested or replaced. The water user or owner of the assembly will be responsible for all associated costs of repair, testing and replacement.
3. Authority to Deny or Discontinue Service When Backflow Protection is Inadequate. As required by OAR 333, where the Bureau has reasonable cause to believe that an existing or potential cross connection is located on a user's premises, the Bureau shall deny or discontinue service. The Bureau may also deny or discontinue service to a premise whenever an assembly is found to be malfunctioning or is not being properly maintained, tested, or repaired. Service shall not be provided or reestablished until adequate and approved backflow protection is installed and/or tested, or the cause of the hazard is otherwise eliminated.

21.12.330 Approval and Release of Easements and Real Property

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

- A. **Easements:** The Chief Engineer has sole authority to approve, accept and amend on behalf of the City Council easements, permits, rights-of-way, former rights-of-way and related documents needed for the construction and management of the water system of the City of Portland when payment or consideration to the property owner and/or affected party does not exceed the limits set forth in City Charter Section 8-104. The Chief Engineer has sole authority to release easements, permits, rights-of-way, former rights-of-way and related documents no longer needed for public water system purposes. For street vacations or non-exclusive Portland Water Bureau easements, such release will not impair the needs of other bureaus or agencies of the City.
- B. **Real Property Excluding Easements:** When acting jointly, the Chief Engineer and the Administrator may approve, accept and amend on behalf of the City Council contracts and related documents for real property interests, excluding easements, needed for the construction and management of the water system of the City of Portland when payment or consideration to the property owner and/or affected party does not exceed the limits set forth in City Charter Section 8-104. The Chief Engineer and the Administrator of the Portland Water Bureau may

dispose of other real property interests and related documents no longer needed for public water system purposes.

21.12.340 Identification of Meter Readers and Inspectors.

(Added by Ordinance No. 182053, effective August 15, 2008.) Each employee of the Portland Water Bureau going onto private premises for purposes such as, but not limited to, reading, inspecting, or testing any metering device installed under the provisions of this Title shall wear identification from the Bureau in a conspicuous place upon the exterior of his or her clothing. The identification will be shown upon demand of any owner or person in charge of the premises entered.

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Chapter 21.16

RATES AND CHARGES

Sections:

21.16.010	Annual Water Rates.
21.16.020	Annual Statement To Be Filed.
21.16.030	Billing Responsibility.
21.16.040	Delinquent Utility Bills.
21.16.070	Work Orders.
21.16.080	Dates and Places of Payment.
21.16.090	Deposit and Application.
21.16.100	Deposit of Money Received.
21.16.110	Bureau May Contract for Collection of Revenues.
21.16.120	Collections, Adjustments and Refunds.
21.16.130	Adjustments on Account of Leaks.
21.16.140	Authority to Estimate Bills.
21.16.150	Testing Meters.
21.16.160	Service Installation Fees.
21.16.170	System Development Charge.
21.16.180	Water Connection Assistance.
21.16.190	Charges for Water Used to Extinguish a Fire.
21.16.200	Charges for Unauthorized Use of Fire Protection Service.
21.16.220	Billing and Collection for Others by Contract.

21.16.010 Annual Water Rates.

The Portland City Council approves and sets water rates for each fiscal year that will provide an estimated income to equal expenses and debt service relating to water bonds. (Section 11-105 of the Portland City Charter). The Bureau prepares the proposed annual water rate ordinance and the City Attorney reviews the ordinance. The Bureau files the ordinance with the Auditor not later than May 20 of each year.

21.16.020 Annual Statement To Be Filed.

An annual detailed statement of its income and expenditures shall be made and signed by the Administrator and shall be filed with the Auditor, who shall preserve the same among the files of his or her office. This annual report shall include a statement of the financial condition and pertinent engineering data of the Bureau of Water Works.

21.16.030 Billing Responsibility.

(Replaced by Ordinance No. 182053, effective August 15, 2008.) The ratepayer responsible for payment of water charges shall be the property owner as verified in county tax records or the water user occupying the property. A property owner may

become obligated for charges for furnishing water to the user by accepting responsibility for payment thereof or by agreement with the Portland Water Bureau.

Water charges are billed daily, regardless of whether the property has no structure on it or if the structure is occupied or vacant. The property owner is responsible for all water charges while a property is vacant.

When a single meter serves multiple dwellings or living units at a property, the property owner(s) shall be responsible for the charges related to water use at the premises unless a party who is not the owner confirms with the Bureau the acceptance of that responsibility in a manner that conforms with Bureau policy.

Either a property owner or a renter may notify the Bureau of the date to open or close an account for a renter. The Bureau will honor the first date on which the request was received to open or close the account. The Bureau will change this date if agreed to by all other affected parties. The Bureau will not mediate a dispute between landlord and renter regarding the dates when billing responsibility changes. The property owner is responsible for all water charges when no renter has accepted responsibility for water charges. If neither a renter nor owner notifies the Bureau that a renter has left tenancy and the Bureau determines by a visit to the property that the property is vacant, water charges shall commence on that date and shall be applied to the owner.

Where a ratepayer has a delinquent bill for one premises, this delinquency shall be a charge against this ratepayer (for water obtained) at any of his or her other premises served by the Bureau.

When a property is sold, the seller is responsible for all water charges until the date the buyer is entitled to possession. If there is a dispute between the seller and the buyer about the date of possession, the Bureau will use Multnomah County taxation records to verify the legal recording date.

21.16.040 Delinquent Utility Bills.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.)

- A.** The Portland Water Bureau shall have the authority to shut off water service to any property when any charge to a ratepayer's account has not been paid within 10 days after that charge is due and payable.

Before water service is shut off for nonpayment the Portland Water Bureau shall give written notice to the service address provided by the water user as well as to the mailing address of the property owner or the party who has agreed with the Bureau to accept responsibility for payment. Such notice shall state the anticipated date when the water will be shut off, as well as informing the ratepayer of his or her right to request an administrative review, and the procedure for requesting the review, to challenge the shut off.

It is the obligation of the water user or responsible party to ensure that the Water Bureau has the most current and accurate address for the user or responsible party. There is no obligation on the part of the Bureau to determine if the address provided is the best or the most current address.

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Once service is shut off, water shall not be provided again until all outstanding obligations for water provided to that user have been paid, or arrangements for payments have been made with the Water Bureau, including additional charges as established in the annual water rate ordinance.

The Portland Water Bureau may, but is not obligated to, allow for continuation of water service for a specified period of time prior to payment of outstanding charges if it is determined that the lack of water will endanger health or cause substantial hardship. The continuation of water service may also be allowed when the delinquent ratepayer is willing to enter into a payment arrangement satisfactory to the Bureau for payment of all delinquent amounts on that ratepayer's account. However, if the charges are not paid as agreed, then the water may again be shut off and not turned on again until the outstanding charges are paid in full or arrangements for payments are made with the Bureau.

The Portland Water Bureau may institute legal proceedings and contract with third parties for the collection of delinquent water bills and charges. The Bureau may require that a deposit be made with the Bureau to ensure payment of future water bills and charges.

- B.** When the delinquent bill includes user charges for sanitary sewer and stormwater management services, the Portland Water Bureau shall collect such charges pursuant to Section 21.16.040.

When the delinquent bill does not include charges for water service, delinquent user service charges for sanitary sewer and stormwater management services shall be collected by any legal means pursuant to Sections 3.24.020 and 3.24.030.

21.16.050 Notice for Billing of Rental Property and Responsibility for Charges When Property Is Vacant.

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

21.16.060 Responsibility for Water Charges When Property Changes Ownership.

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

21.16.070 Work Orders.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Work orders for main extensions, service connections, and meter installations for which a deposit or charges are or may be made under this Title, shall be established by the Engineering Services Group of the Bureau.

21.16.080 Dates and Places of Payment.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.) Charges for water use will be computed, and bills mailed, on a schedule determined by the Portland Water Bureau. The billing schedule will be kept on file by the Bureau. The water bill, with a due date, will be payable at either the Bureau or at authorized locations established by written agreement with the Bureau.

21.16.090 Deposit and Application.

(Amended by Ordinance No. 182053, effective August 15, 2008.) An application, deposit, or both, for water service may be required from all new ratepayers, ratepayers whose service has been shut off for nonpayment, or those persons with unsatisfactory credit who are requesting service. Unsatisfactory credit is defined as not meeting credit and collection industry standards or having service shut off for nonpayment of water or sewer charges within the past year. Failure to provide either the application, deposit, or both within the due date specified by the Portland Water Bureau may result in discontinuance of service.

21.16.100 Deposit of Money Received.

(Amended by Ordinance No. 182053, effective August 15, 2008.) All monies collected or received by the Portland Water Bureau for the use and consumption of water or otherwise will be deposited with the bank designated by the Treasurer of the City. The Treasurer shall keep the same separate and apart from the other funds of the City in funds to be known as the Water Fund and the Water Construction Fund, and pay it out only on checks signed by the Mayor, countersigned by the Auditor, and not otherwise.

21.16.110 Bureau May Contract for Collection of Revenues.

The Commissioner-In-Charge of the Bureau and the Auditor are hereby authorized to enter into contracts for periods not to exceed 5 years with such persons or corporations as may be selected by the Administrator for the collection of water revenue for the City. The contracts shall provide for compensation for collection and may cover certain expenses related to revenue collection. The contracts shall require that a bond be furnished by the collection agent or the City, at the City's option, the premium for such bond may be paid for by the City. The bond shall be conditioned upon the performance of such contract, and shall be in such form as may be satisfactory to the Administrator and the City Attorney.

21.16.120 Collections, Adjustments and Refunds.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.) Water user charges will be computed monthly, bimonthly or quarterly and billed by the Portland Water Bureau.

All payments for water user charges shall be made to, and adjustments and refunds made by, the Portland Water Bureau. The Bureau shall ensure that charges and credits are posted to ratepayer accounts.

- A.** The Portland Water Bureau may make adjustments, pay refunds or waive fees and charges where it is deemed necessary for the proper conduct of the business of the Bureau. Adjustments shall be in the form of credits or additional charges to an active account. When the adjustment is a credit to a ratepayer who has no active account, a refund shall be issued if the ratepayer can be located.

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When a billing error occurs, the Bureau may authorize an adjustment of the water service account to correct the error. Adjustments may not exceed a period of three years from the date the Bureau received notice of the error. Eligibility for an adjustment on an account shall end six months after the date a final bill was issued for that account.

If a current ratepayer was not billed because the Bureau was not notified of his or her responsibility for payment, the Bureau shall issue the bill from the date the ratepayer became responsible for the bill as described in Section 21.16.030 Billing Responsibility.

- B.** Water system ratepayers who receive a back billing or a delayed billing will be offered the opportunity to pay the balance due over a period of time based on current City collection policies.
- C.** The Portland Water Bureau may establish administrative rules with the Bureau of Environmental Services governing the adjustment, refund or waiver of user charges including but not limited to sanitary sewer and stormwater management services.

21.16.130 Adjustments on Account of Leaks.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.) The Portland Water Bureau may make adjustments to water use charges where a leak exists in the water system on the property side of the meter. Reasonable efforts must be made within 30 days after the leak was detected to locate the leak and initiate repairs and have repairs completed within 90 days of notification.

21.16.140 Authority to Estimate Bills.

(Amended by Ordinance No. 182053, effective August 15, 2008.) When a meter fails to register accurately, the Portland Water Bureau shall charge for water based on the historic usage of water at the premises. Estimated bills may also be issued if a meter reading cannot be recorded because the meter is inaccessible due to, but not limited to, inclement weather; overgrowth or other obstruction; failure to locate; or illegal usage bypasses the meter. Adjustments to the estimated bill shall be made consistent with the provisions of Section 21.16.120 "Collections, Adjustments and Refunds."

21.16.150 Testing Meters.

(Amended by Ordinance No. 182053, effective August 15, 2008.) When any water ratepayer makes a complaint that the bill for any particular billing period is excessive, the Portland Water Bureau will, upon request, reread the meter and inspect the service for leaks. Should the ratepayer then desire that the meter be tested, he or she shall make a deposit as prescribed in the annual water rate ordinance to cover the cost of making the test. If the tested meter is found to register 3% or more higher than the actual water flow through the meter, the deposit will be refunded and the Bureau shall estimate the excess consumption and make an adjustment in the form of a credit on the bill immediately

preceding and/or the current bill. In such instances the Bureau shall repair or replace the meter. If the tested meter is found to read within 3 % of the actual water flow through the meter, the Bureau will keep the deposit to cover the expense of the test.

21.16.160 Service Installation Fees.

The fees for installing and/or activating water service up to and including 1-inch in size shall be as provided in the annual water rate ordinance and shall be paid prior to service installation.

The fees for installing services greater than 1-inch shall be based on the Bureau's costs plus overhead, as provided in the finance regulations, Title 5 of the Code of the City of Portland. The applicant may choose to pay either a set price based on the Bureau's estimate or the actual cost of the installation. If the applicant accepts the Bureau's estimate as the set price these costs must be paid before the Bureau will perform the work. After a set price has been established, the Bureau will not refund or adjust installation charges unless changes in installation or location are requested by the applicant.

If the applicant chooses to pay the actual costs plus overhead he or she shall submit a deposit equal to the estimated cost before the Bureau will begin the work. When the estimated cost differs from the actual for labor, materials, and overhead the deficit shall be charged to the applicant or any excess payment shall be returned to the applicant.

In addition to the service installation fees, an applicant for new service must pay the System Development Charge, as described in Section 21.16.170 "System Development Charge" and as set in the annual water rate ordinance. If the service branch has been installed by a developer as allowed in section 21.12.110 "Installation of Service Pipes from the Main to the Property Line," the applicant will be charged for only the applicable system development charge and any charge for service activation as set in the annual water rate ordinance.

21.16.170 System Development Charge.

(Amended by Ordinance No. 182053, effective August 15, 2008.) An applicant for a new water service connection or increase in the size of an old connection within the City limits shall pay a system development charge. The System Development Charge will be based upon calculations provided for in the annual water rate ordinance. New Water Service Connections solely for fire protection purposes shall be exempt from payment of the System Development Charge. A System Development Charge shall not be assessed for a temporary service (see Section 21.12.090 "Permit for Temporary Service").

21.16.180 Water Connection Assistance.

(Replaced by Ordinance No. 181715, effective April 2, 2008.) The City may provide water connection assistance to eligible property owners based on criteria established each year by City Council in the Annual Rate Ordinance. The Administrator may adopt administrative rules and procedures necessary to implement the water connection assistance criteria described in the Annual Rate Ordinance.

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The City may grant loans to property owners to finance City water system development charges, as provided in City Code Chapter 17.14 Financing Systems Development Charges. The Administrator may adopt administrative rules and procedures necessary to implement the loan program.

21.16.190 Charges for Water Used through a Fire Protection Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) No charge shall be made for water used to extinguish a fire. Except as otherwise noted in this section, a property owner may use water from the City to test the fire protection system. Water used to pressure test a fire protection system will be registered on detector check metered firelines, or estimated on unmetered firelines. Flow testing a fire protection system requires that the Bureau install a metering device on the service to register the water used. Water used for testing a service for fire protection shall be charged at the commodity rates prescribed in the Water Rate Ordinance, as annually adopted by the City Council. Sewer charges will normally not be assessed for water used to test a fire protection system. Testing that results in a volume of water that is determined to have a measurable impact on the sewer system may subject that service to a sewer charge.

Testing of a fire service may not be conducted in a manner that will degrade the public water system. Flow testing through a fire service shall not reduce the pressure in the main less than 50% of maximum static pressure and shall in no case reduce the pressure below 30 lbs per sq. in. In this regard, prior to testing large flows, the individual conducting the test shall consult with the Bureau to determine limits of flow and to develop methods that may mitigate any detrimental effects on the public water system. Repeated testing of a fire service that violates a Bureau-approved testing program or affects the average daily water system conditions by more than allowable will result in a reclassification of the type of service and the collection of a System Development Charge.

21.16.200 Charges for Unauthorized Use of Fire Protection Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) A fire service is to be used to extinguish a fire, and is specifically not to be used for domestic, maintenance, or irrigation purposes. (See Section 21.12.220 "Fire Protection Service.")

There are progressively increasing charges for unauthorized use of water supplied through firelines. There is a commodity charge of three times the normal rate for water for the first unauthorized use, and ten times the normal rate for all later unauthorized uses. If unauthorized use continues, the Bureau shall install a full-flow meter and bill the property owner for the full costs of the meter as well as System Development Charges. These policies and procedures are further detailed in the annual water rate ordinance.

21.16.210 Billing and Collection of Sewer User Charges.

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

21.16.220 Billing and Collection for Others by Contract.

The Bureau may bill and collect for user fees and services provided by other public and private entities as established by contracts approved by City Council. All revenue collected for other entities will be deposited in separate accounts.

Chapter 21.20

TURNING ON OR SHUTTING OFF

Sections:

- 21.20.010 Application To Turn On Water.
- 21.20.020 Temporary Shut Off.
- 21.20.030 Unlawful To Turn On Water Without Authority.
- 21.20.040 Charges for Service Pipes Connected Without Permit.
- 21.20.050 Authority To Shut Off Service.

21.20.010 Application To Turn On Water.

Applications to turn on water must be signed by the owner and agent of the property involved and must be filed with the Bureau before they become effective.

21.20.020 Temporary Shut Off.

(Amended by Ordinance Nos. 179978, 180917 and 182053, effective August 15, 2008.)
An owner or tenant may request by telephone, in writing, or in person that the Bureau temporarily discontinue water service. Fire protection service may only be discontinued upon written request of the owner and approved by Portland Fire & Rescue. Base charges will continue during temporary shut off.

21.20.030 Unlawful To Turn On Water Without Authority

It is unlawful to use or permit use of City water through a service that has been shut off. Should the water be turned on without authority from the Bureau, the Bureau may stop water service either by shutting off the water at the main, by removing the meter, or by any other appropriate method.

The charge for removing the meter and the charge for replacing the meter shall be in accordance with the annual water rate ordinance. The charge for stopping water service by any other method and the charge for subsequent restoring of the water service, shall be as provided in the Title of the City Code which addresses finance regulations. All such charges shall be charged to the user and when the delinquent user occupies the premises, water shall not again be furnished to the premises until the charges are paid.

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21.20.040 Charges for Service Pipes Connected Without Permit.

When premises or additional premises are connected without the application prescribed in Section 21.20.010 "Application to Turn On Water." the premises may be charged as prescribed in the annual schedule of water rates and the service may be shut off by order of the Administrator. In case water shall be turned off as provided in this Section, the same shall not be turned on again until all rates and charges against the premises have been paid in full.

21.20.050 Authority To Shut Off Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) The Bureau reserves the right at any time, without notice, to shut off the water supply for repairs, extensions or any other reason. The Bureau shall not be responsible for any damage, such as the bursting of boilers, the breaking of any pipes or fixtures, stoppage, or interruption of water supply, or any other damage resulting from the shutting off of the water.

Chapter 21.24

RULES AND REGULATIONS

Sections:

- 21.24.010 Animals Prohibited on Watershed or City Property.
- 21.24.020 Fire Hydrants.
- 21.24.030 Water for Naval Vessels in Harbor.
- 21.24.040 Access to Premises for Inspection.
- 21.24.050 Unlawful to Damage, Alter, or Tamper with Water Property.
- 21.24.060 Emergency Loan of Materials.
- 21.24.070 Impairment of Service to Other Properties.
- 21.24.080 Administrative Rules, Procedures and Forms.
- 21.24.090 Enforcement.

21.24.010 Animals Prohibited on Watershed or City Property.

(Amended by Ordinance No. 182053, effective August 15, 2008.) It is unlawful for any person to permit domestic animals to run at large on any lands situated in Multnomah, or Clackamas Counties that are owned by the City of Portland and used by the City in connection with the Headworks of the Portland Water Bureau. It is also unlawful for any person to permit domestic animals to run at large on lands within the area of the Bull Run Watershed or Bull Run Watershed Management Unit that are owned by the City.

21.24.020 Fire Hydrants.

(Amended by Ordinance Nos. 180917 and 181715, effective April 2, 2008.) It is unlawful for any person to operate, alter, change, remove, disconnect, connect with, or interfere in any manner with any fire hydrant owned or used by the City without first obtaining written permission from the Portland Water Bureau. Penalties for unauthorized use of a fire hydrant are set in the annual water rate ordinance. The provisions of this Section shall not apply to Portland Fire & Rescue of the City.

Public fire hydrants are available for use of the Fire Department in the suppression of fire within the City. No other use of public hydrants shall be allowed except as provided in this Section and in Section 21.12.090 "Permit for Temporary Service," and 21.12.100 "Annual Fire Hydrant Permit." The Portland Water Bureau may permit short-term use of specified hydrants for activities such as tree spraying, street cleaning, ditch settling, building demolition, and related uses at the discretion of the Administrator, however, in each instance, a permit is required. A Temporary Permit may be issued by the Portland Water Bureau for a period not to exceed 90 days, and an Annual Permit shall be issued for one year. Upon application the permittee must present a Chapman type (slow closing) gate valve to the Portland Water Bureau to be tagged with a valid permit listing applicant's name, expiration date, and authorized locations. The permittee shall be responsible for compliance with all city, state, and federal rules, regulations, and guidelines regarding the proper use and disposal of water. Rates and charges for usage

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will be specified in the annual water rate ordinance. Backflow protection shall be required on all potential hazards to the public water supply as determined by the Administrator or Chief Engineer.

All fire hydrants connected to the Portland Water Bureau's water system within the City and within the public right-of-way or an approved easement are the responsibility of the Portland Water Bureau for installation and maintenance. Any hydrant connected to the system outside the City must be installed at the petitioner's expense, but shall be maintained by the Portland Water Bureau. The petitioner shall be required to pay all expenses for additional hydrant installations to meet requirements of Portland Fire & Rescue and in all instances the Chief Engineer shall have final review and approval authority.

The Portland Water Bureau may elect to allow a contractor to install to Portland Water Bureau standards, fire hydrants as part of his or her Subdivision under Section 21.08.020 "Distribution Main Extensions Inside the City." The developer must install these hydrants at his or her expense and transfer ownership to the Portland Water Bureau at such time as the main and appurtenances are accepted by the Portland Water Bureau to become part of the City system.

21.24.030 Water for Naval Vessels in Harbor.

(Amended by Ordinance No. 180120, effective June 9, 2006.) The Bureau is authorized to furnish water to any visiting naval war vessel of the United States or to any visiting naval war vessel of any foreign country entering the harbor in the City, without payment. All such connections shall require an approved backflow prevention assembly.

21.24.040 Access to Premises for Inspection.

To the full extent permitted by law, employees of the Bureau shall have free access, at proper hours of the day, to all parts of buildings and premises for the purpose of inspecting the condition of the water pipes and plumbing fixtures to determine whether cross-connections or other structural or sanitary hazards exist, and the manner in which the water is being used. Whenever the owner of any premise supplied by the Bureau restrains authorized City employees from making such necessary inspections or refuses access therefor, water service may be refused or discontinued.

21.24.050 Unlawful to Damage, Alter, or Tamper with Water Property.

It is unlawful for any person, without authority from the Bureau, to willfully damage, connect to, operate, alter, or otherwise tamper with any City water main, service, meter, meter box, hydrant, valve, or any other facility owned or operated by the Bureau.

21.24.060 Emergency Loan of Materials.

The Administrator may approve emergency loan of operating materials and equipment on a temporary basis to other governmental agencies, including water districts and municipalities, at their expense upon their written request, if such loan does not adversely affect the operation of the Bureau.

21.24.070 Impairment of Service to Other Properties.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Where the use of water is intermittent or where such use produces extreme volume or fluctuations that may impair service to other properties, the Portland Water Bureau may require a property owner or his or her agent to provide, at his or her own expense, suitable equipment to reasonably limit fluctuations in use and pressures.

21.24.080 Administrative Rules, Procedures and Forms.

(Added by Ordinance No. 181715, effective April 2, 2008.)

- A. The Administrator of the Portland Water Bureau may adopt, amend and repeal administrative rules, procedures, and forms pertaining to matters within the scope of this Title and consistent with the provisions of this Title.
- B. Any adoption, amendment or repeal of a rule pursuant to this section requires a public review process. Notice shall be published in a newspaper of general circulation in the Portland metropolitan area not less than forty-five, nor more than sixty, days before such public review process. The notice shall include the place and time of any public meeting on the proposal, the description and purpose of the proposal, the location at which copies of the full text of the proposal may be read or obtained, and the name of the person at the Portland Water Bureau to whom written comments or questions about the proposal may be directed.
- C. Forty-five days after publication of the notice, the Administrator shall record oral and written testimony concerning the proposed rule(s) at a public hearing. The Administrator has the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for conduct of the hearings, to hear evidence and to preserve order. The Administrator may continue any such hearing to another date.
- D. After considering comments received during the public review process and other relevant matters, the Administrator taking into consideration the comments received during the hearing shall either adopt the proposal, modify or reject it.
- E. Unless otherwise stated, all rules are effective upon adoption by the Administrator of the Portland Water Bureau and shall be filed in the office of the Administrator of the Portland Water Bureau and in the Portland Policy Documents repository described in Chapter 1.07. Notice of the adopted rule(s) shall be published in a newspaper of general circulation in the Portland metropolitan area within fourteen days of adoption.
- F. Notwithstanding paragraphs B. – E. of this section, an interim rule may be adopted without prior notice upon a finding by the Administrator that failure to

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act promptly shall result in serious prejudice to the public interest. Any rule adopted pursuant to this paragraph shall be effective for no longer than 180 days.

21.24.090 Enforcement.

(Added by Ordinance No. 181715, effective April 2, 2008.)

- A.** Persons who fail to comply with the requirements or prohibitions of Title 21 or rules adopted under Section 21.24.080 are subject to enforcement actions by the City of the Portland.
- B.** Violations.
 - 1.** A violation occurs when any requirement or prohibition of Title 21 or rules adopted under Section 21.24.080 are not complied with.
 - 2.** Each separate occasion is considered a separate violation. The Portland Water Bureau shall issue only one violation per prohibited use per day.
- C.** Enforcement. In enforcing any of the requirements or prohibitions of Title 21 or rules adopted under Section 21.24.080, the Administrator may:
 - 1.** Issue warning notices;
 - 2.** Issue notices of violation and orders to comply;
 - 3.** Institute an action before the Code Hearings Officer;
 - 4.** Impose civil penalties, in an amount not to exceed \$500 per day or as otherwise specified elsewhere in Title 21 or the annual rate ordinance. These penalties shall be imposed for each day a violation continues to exist against any individual or business who does not comply with the provisions of this Title. Each failure to comply shall be deemed a separate violation;
 - 5.** Order the installation of facilities required by this Title as a condition of providing water service; or
 - 6.** Terminate water service.
- D.** Appeal of enforcement action. A water user may appeal the Administrator's action within 30 days from the date the notice of enforcement is mailed, in accordance with procedures and timelines set out in Title 22 of the Portland City Code. Such an appeal must include a copy of the action that is the subject of the appeal, must

state the basis for the appeal, and must be filed with the Code Hearings Officer and the Portland Water Bureau.

Chapter 21.28

**OUTSIDE CITY SERVICES AND
WHOLESALE DISTRIBUTORS**

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

Sections:

- 21.28.010 Individual Water Services Outside City.
21.28.020 Water Supply to Wholesale Distributors by Contract.

21.28.010 Individual Water Services Outside City.

- A.** The Portland Water Bureau may furnish water to properties outside the Portland city limits, charging rates fixed by the Council in the annual water rate ordinance.
- B.** Subject to the provisions of Section 21.12.010 "Service to Property Adjacent to Water Main," Section 21.12.270 "Ownership of Meters," and Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection," the property owner must purchase a water service and meter of approved size and design, which shall be located where required by the City, and an approved backflow prevention assembly may be required.
- C.** Each individual applicant for a water service connection outside of the City shall make application to the Water Bureau upon a form containing the following agreement:
"Application is hereby made by the owner of the property address
for a water service connection outside the City of Portland, Oregon.
If this service is allowed it will be a special contract service. The ratepayer at the premises described above shall pay the rate listed in the annual water rate ordinance for service outside the Portland city limits.
The quantity of water supplied by this service may be reduced or the service entirely discontinued at any time for any reason by order of the Administrator, including circumstances under which water apportionment is ordered per City Code Section 21.32.010. Except when limitations are imposed under City Code

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Chapter 21.32 or in case of emergency, the Administrator shall give at least 60 days' notice in writing before service is discontinued. That notice is to be delivered at the premises or at the last known address of the owner.”

- D.** The Bureau may suspend temporarily the delivery of water for the purpose of making repairs or improvements to its system.
- E.** During any emergency, the Bureau may, consistent with and subject to existing contractual obligations, apportion the available water supply in that manner which appears most equitable under the circumstances then prevailing and with due consideration for public health and safety.
- F.** Ratepayers located outside City boundaries are subject to all applicable provisions of City Code Title 21 and the Portland Policy Documents. The Administrator may make their service subject to any other reasonable conditions the Administrator deems appropriate or proper.

21.28.020 Water Supply to Wholesale Distributors by Contract.

When authorized by contract to do so, the Portland Water Bureau may furnish water to wholesale distributors, as defined in Code Section 21.04.120, within and without City boundaries. The Mayor and the Commissioner-in-Charge of the Bureau may enter into and execute contracts or agreements to supply water to wholesale distributors, subject to relevant provisions of the Charter and in accordance with the rates established by the Council.

Subject to its contractual obligations, the Bureau may suspend temporarily the delivery of water for the purpose of making repairs or improvements to its system and, during any emergency, the Bureau may apportion the available water supply in that manner which appears most equitable under the circumstances then prevailing and with due consideration for public health and safety.

Chapter 21.32

WATER CONSERVATION MEASURES

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

Sections:

21.32.010 Water Supply and Curtailment Policy.

21.32.010 Water Supply and Curtailment Policy.

It is the policy of the City of Portland through the Portland Water Bureau to provide clean, healthful, and plentiful water. Circumstances beyond the City's control, however, including weather conditions, natural catastrophe or the actions of others on the City's water supply system or sources may make it necessary to apportion the City's water. When a water shortage exists or is imminent or any other emergency arises or is imminent which threatens to disrupt or diminish the municipal water supply, the City may allocate water among users. In doing so, the City shall allocate water or curtail the use of water taking into account such issues as public health and safety, community economic conditions, the financial and operational needs of the water system, and existing wholesale contractual obligations. The Administrator of the Portland Water Bureau may, consistent with this section, adopt, amend, or rescind rules, procedures, and forms to establish a water allocation or curtailment program to be implemented in times of actual or imminent water shortage or emergency. Such rules shall be promulgated under the procedures described in City Code Section 21.24.080.

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Chapter 21.35

WELLHEAD PROTECTION

(Added by Ordinance No. 177668,
effective July 1, 2003.)

Sections:

- 21.35.010 Establishment of Wellhead Protection Area.
- 21.35.020 Storage, Handling, Use and Transportation of Hazard Materials - Reporting.
- 21.35.030 Storage, Handling, Use and Transportation of Hazardous Materials - Standards.
- 21.35.040 Storage, Handling, Use and Transportation of Hazardous Materials - Inspections.
- 21.35.050 Storage, Handling, Use and Transportation of Hazardous Materials - Certificates of Inspection.
- 21.35.060 Enforcement.
- 21.35.070 Inter-Agency Cooperation.
- 21.35.080 Building and Site Permit Review and Approval.

21.35.010 Establishment of Wellhead Protection Area.

The Bureau of Water Works is authorized to establish wellhead protection areas in order to regulate the storage, handling, use and transportation of materials that could contaminate groundwater. The Bureau of Water Works shall establish the boundaries of wellhead protection areas based on the best available information about the dynamics of the aquifers that existing and future wells tap, the time-of-travel of hazardous materials and other relevant factors. The Bureau shall publish a map of all designated wellhead protection areas, shall certify copies to other city bureaus, and shall make such maps available to the public upon request and otherwise take steps, in its discretion, to publicize the availability of the maps to residences and businesses within the wellhead protection area. The Bureau of Water Works may alter the boundaries of a wellhead protection area if the information on which existing boundaries are based changes. Proposed changes to a wellhead protection area shall be adopted by rulemaking as set forth in Section 21.35.090

21.35.020 Storage, Handling, Use and Transportation of Hazard Materials - Reporting.

- A. The Bureau of Water Works shall have the authority to designate materials as hazardous and to require all persons or businesses possessing or using hazardous materials within the wellhead protection area to make annual reports to the Bureau concerning the types and quantity of hazardous materials stored, handled, used or transported, the storage and containment provisions for hazardous materials, and related information, including but not limited to a site plan indicating the location of hazardous materials manufactured, generated, stored or

used, information indicating the location of drains, capacities of containment systems, drainage utility shut-off, and topographical information. If the Bureau of Water Works establishes reporting requirements, persons or businesses shall submit required information to the Bureau of Water Works in accordance with the schedule established in the Reference Manual. If another bureau is designated to receive reports on behalf of the Bureau of Water Works, and if it is deemed practical by both bureaus, reporting requirements and reports may be combined.

- B.** Failure to submit a complete report within the timeframe established in the Reference Manual constitutes a violating and shall be subject to enforcement pursuant to Section 21.35.050 of this Chapter.

21.35.030 Storage, Handling, Use and Transportation of Hazardous Materials - Standards.

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

- A.** Initial standards for the storage, handling, use and transportation of hazardous materials are contained in the Well Field Wellhead Protection Program Reference Manual, adopted as administrative rules concurrently with this Code. The Bureau of Water Works shall have the authority hereafter to promulgate rules pursuant to Section 21.35.090 to set or amend standards, including the standards found within the Reference Manual, for the storage, handling, use and transportation of hazardous materials that may be used within the wellhead protection area. The Bureau's authority to set standards shall extend to designation of materials as hazardous to groundwater quality, to storage, handling use, transportation, and containment of such materials both inside and outside structures, including equipment or devices for preventing and controlling spills or releases of such materials beyond containment vessels. Rules adopted under this Section of the water code shall be compiled in the Reference Manual.
- B.** Upon the effective date of this Chapter, existing businesses and individuals not in compliance with the standards set pursuant to this Chapter of the Code, shall bring their operations into compliance with applicable standards in accordance with the schedule established in the Reference Manual.
- C.** Within 15 months of the program effective date, the Water Bureau shall collect information on the number of existing, non-conforming businesses that will be required to upgrade operations to comply with the requirements of Subsection 21.35.030 B. Data gathered by the Water Bureau shall include information on the specific scope and extent of improvements required pursuant to Subsection 21.35.030 B. and shall be collected during routine inspections performed by Portland Fire & Rescue.

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D. The Water Bureau and Bureau of Environmental Services shall evaluate collected information, in consultation with affected business and property owners, and business organizations to determine if improvements required by Subsection 21.35.030 B. are protective of water quality within the Wellhead Protection Area and Columbia Slough watershed. The Water Bureau and Bureau of Environmental Services will report to Council the results of this evaluation before January 1, 2005.

E.

- 1.** Site plans or permits for projects to bring existing non-complying operations into compliance with the standards of this Chapter and the Reference Manual shall not be subject to additional review by Bureau of Environmental Services to address source control issues of the City Stormwater Management Manual (SWMM).
- 2.** The exemption from Bureau of Environmental Services review in Subsection 21.35.030 E.1., shall not apply where a business or property owner cannot manage increased stormwater resulting from modifications required to comply with the wellhead protection requirements entirely on-site. If such drainage cannot be managed on-site and will drain to a City sewer, a City sewer easement, or a City right-of-way, the permit shall have a BES source control review to assess impact to the Columbia Slough which may result in additional source protection measures beyond the Reference Manual Best Management Practices to address the increases in stormwater drainage. The requirements of Subsection 21.35.030 E.2. shall remain in effect until January 1, 2005.
Nothing in this provision shall exempt any site plan or permit from stormwater management requirements contained in sections of the Stormwater Management Manual that are not related to source control (source control requirements are currently contained in Chapter 4) or from future source control review criteria that may become required by state or federal law beyond the scope of requirements in the 2002 SWMM.
Nothing in this provision shall exempt any person from the requirements of City Code Chapter 17.34 related to industrial wastewater discharges to the City's sewer system or from the requirements of the NPDES permit program.

21.35.040 Storage, Handling, Use and Transportation of Hazardous Materials - Inspections.

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

- A.** The Bureau of Water Works may conduct inspections of businesses that store, handle, use or transport hazardous materials to ascertain compliance with the

standards of this Chapter, including but not limited to the types, quantities and locations of hazardous materials, primary and secondary containment facilities, and the existence of spill prevention and spill control equipment or devices. For purposes of exercising this authority, the Bureau shall adopt policy regarding the necessary qualifications for those who conduct inspections and the frequency, priority, and type of inspection of businesses based on, among other things, the degree of risk to water quality in the well field, history of violations, characteristics of the use, and the availability of budgeted funds and staff.

- B.** Inspections may be initiated as the result of a complaint or referral, at any time the Bureau has reason to believe there is a violation, or as defined by a routine schedule for compliance. Inspections and re-inspections will be used to determine if an operation is in compliance with this Chapter.
- C.** Inspections may involve a review of equipment, structures and operating practices; records or plan review; interviews with operators; and photo documentation. As such, businesses shall allow representatives of the Bureau, upon presentation of credentials, to:

 - 1.** Inspect at reasonable times any facilities, equipment, practices or operations regulated or required under the provisions of this Chapter;
 - 2.** Enter the premises where hazardous materials are being managed, or where records may be kept under the provisions of this Chapter. The owner/operator must make necessary arrangements to allow access without delay; and
 - 3.** Have access to and copy, at reasonable times, any records that must be kept under the provisions of this Chapter.
- D.** If a business refuses or declines to allow an inspection or re-inspection under Subsections 21.35.040 C.1.-3., the Water Bureau may seek an administrative warrant from Multnomah County Circuit Court to conduct such inspection or re-inspection.
- E.** After inspection and upon finding that all standards of this Chapter have been met, the Bureau of Water Works shall issue a Certificate of Inspection to each business inspected under this Chapter, as provided in Section 21.31.050.
- F.** In the event an inspection reveals a violation of the standards of this Chapter that cannot be resolved or corrected during the course of the inspection, the Bureau of Water Works shall follow the procedures set forth under Section 21.35.060, as applicable.

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- G.** The Water Bureau may enter into interagency agreements with Portland Fire & Rescue or other city bureaus, or contract with other governments or private parties, to conduct inspections inside the Portland city limits. Subject to Council approval, the Water Bureau may enter into contracts with private entities or intergovernmental agreements with other municipal corporations for inspections in those portions of the wellhead protection area outside the City of Portland boundaries.

21.35.050 Storage, Handling, Use and Transportation of Hazardous Materials - Certificates of Inspection.

- A.** A Certificate of Inspection shall be valid until a subsequent inspection or review or until it is revoked.
- B.** A Certificate of Inspection shall be kept on the premises at all times and be available for review by Bureau of Water Works personnel or other authorized City personnel.
- C.** A Certificate of Inspection shall contain the following information:
 - 1.** The address of the occupancy or facility, including exterior space utilized for storage, handling, use or transportation of hazardous materials;
 - 2.** The name and address of the person or business occupying the facility; and
 - 3.** A statement that the described occupancy complies with the applicable regulations and policies.
- D.** The issuance of a Certificate of Inspection does not suspend the applicability of any water regulations.
- E.** The Certificate of Inspection is issued to the business owner/operator for the existing use at the location specified in the Certificate. It is not transferable.

21.35.060 Enforcement.

(Amended by Ordinance Nos. 180917 and 182053, effective August 15, 2008.)

- A.** Violations. It shall be a violation to store, handle, use or transport hazardous materials in a manner contrary to the standards set by the Bureau of Water Works.
- B.** Warning Letter.

1. The Bureau may issue a Warning Letter that informs an individual or business of a violation, and the consequences of the violation or continued noncompliance. The letter may state the actions required to resolve the violation and may specify a reasonable time by which compliance is to be achieved.
2. As part of a Warning Letter, and depending on the number or gravity of violation(s), the Bureau may require an individual or business to prepare and submit a Compliance Plan that establishes a reasonable timeframe for correcting the violation(s) or the implementation of alternative storage, handling, use, transportation, or containment practices that are capable of satisfying the standards of this Chapter. A Compliance Plan shall be subject to review and approval of the Bureau of Water Works, or a designated bureau.
3. If an individual or business fails to take the steps necessary to come into compliance within the period specified in the Warning Letter, the Bureau may take further enforcement action pursuant to Subsection 21.35.060 C.

C. Orders to Cure Violations, Civil Liability, Nuisances.

1. If an individual or business fails to come into compliance in the time specified in a previously issued Warning Letter, or within a timeframe established in an approved Compliance Plan, the Bureau may issue an Order to Cure the violation and establish a final date for resolving the violation, after which Subsections 21.35.060 D. and E. may be invoked. Failure to comply with an Order to Cure shall be a violation of law.
2. If the Water Bureau finds that there is an imminent danger of a release of hazardous materials into the environment resulting from the violation of standards governing the storage, handling, use and transportation of a hazardous material, the Bureau may declare that a nuisance exists and may issue, without prior notice, an Order to Cure requiring immediate action to be taken to halt any activity causing such imminent danger, and directing the individual or business to immediately take steps correct any conditions contributing to the danger.
3. If the individual or business subject to an Order to Cure issued pursuant to this section does not comply with the Order, the Bureau may:
 - a. Revoke a Certificate of Inspection;

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- b.** Order the individual or business to cease the storage, handling, use or transportation of hazardous materials that are the subject of the violation until such time as the violation is corrected;
 - c.** Issue a Civil Penalty pursuant to Subsection 21.35.050 D.; or
 - d.** Undertake to correct any conditions contributing to the imminent danger of a release of hazardous materials into the environment. The costs of such action will be charged to the individual or business subject to such Order.
- 4.** The person or business subject to an Order to Cure issued under this Chapter may appeal said Order under City Code Subsection 31.10.080 C. in the same manner that an order of the Fire Marshal may be appealed. The Board of Fire Appeals shall handle any such appeal as provided in the Fire Code, except that the Board is not authorized to grant variances or adjustments under City Code Subsection 31.10.080 C.5.
- 5.** Should hazardous material be released as a result of a violation, or as a result of a failure to correct a violation, the individual or business responsible for such spill shall be civilly liable for all costs incurred by the City associated with cleaning up such release and all costs of any other City action reasonably determined to be necessary by the City to contain, control or clean-up the release or to protect the well field from contamination.

D. Civil Penalty.

- 1.** In addition to any other fee or civil liability provided by law, the Bureau of Water may impose a civil penalty in an amount not to exceed \$500 per day or two times the re-inspection fee that would otherwise have been collected, whichever is greater, for each day a violation continues to exist against any individual or business who does not comply with the provisions of this chapter. Each failure to comply with a separate regulatory standard shall be deemed a separate violation.
- 2.** Any civil penalty imposed pursuant to this section shall become due and payable when the person incurring the penalty receives a notice in writing from the Bureau of Water or designated bureau. The notice referred to in this Subsection shall be sent by registered or certified mail and shall include:
 - a.** A reference to the particular Sections of the Chapter or Code Section or Reference Manual involved;

- b. A short and plain statement of the matters asserted or charged;
 - c. A statement of the amount of the penalty or penalties imposed; and
 - d. A statement of the right of the person to request a hearing.
 3. The owner or operator of a facility subject to this Section who is ordered to pay a civil penalty in accordance with this Section shall have the right to appeal the imposition of or amount of the penalty as provided by City Code Subsection 31.10.080 C. of this Code in the same manner that an order of the Fire Marshal may be appealed. The Board of Fire Appeals shall handle any such appeal as provided in the Fire Code, except that the Board is not authorized to grant variances or adjustments under City Code Subsection 31.01.080 C.5.
- E. Legal Action. The City may bring an action in a court of proper jurisdiction, including the Circuit Court of Multnomah County and the Federal District Court for the District of Oregon, to enforce any order to cure issued under this Chapter, collect any penalty assessed under this Chapter, or recover any costs incurred pursuant to Subsections 21.35.060 C.3. and 5.
- F. Re-inspection Fees.
1. Any individual or business found in violation of law or any order under this Chapter and who fails to correct such violation or comply with such order within 30 days after receiving written notice from the Bureau of Water to do so, shall be charged and required to pay a re-inspection fee of:
 - a. \$100 if violations remain uncorrected at the time of the first re-inspection,
 - b. \$200 if violations remain uncorrected at the time of the second re-inspection,
 - c. \$400 for the third and subsequent re-inspections if violations remain uncorrected at that time.
 2. Re-inspection fees shall be in addition to any fees established by Council or the Water Bureau by rulemaking in the Well Field Wellhead Protection Program Reference Manual. Any person or business so charged a re-inspection fee that believes that the charges are inappropriate may appeal such charges pursuant to City Code Subsection 31.10.080 C. in the same

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manner that an order of the Fire Marshal may be appealed. If the Water Bureau enforces this chapter through interagency agreement with Portland Fire & Rescue or another bureau, the fees charged by that bureau shall be in lieu of the fees described in this paragraph.

21.35.070 Inter-Agency Cooperation.

(Amended by Ordinance No. 180917, effective May 26, 2007.) The Bureau of Water Works may enter into inter-agency agreements with Portland Fire & Rescue or other City bureaus to inspect premises, issue Certificates of Inspections, enforce standards, or otherwise administer this Wellhead Protection Code. If inter-agency agreements are made to enforce standards, and if circumstances make it practical, the Certificates of Inspection issued under this chapter shall be combined with any certificates of inspection or equivalent issued by the bureau enforcing this chapter.

21.35.080 Building and Site Permit Review and Approval.

No City building permit or other permit for site alterations, construction, building alterations, repairs, or other work involving or affecting the storage, handling, use, transportation, or containment of hazardous materials may be issued without the prior review and approval of the Bureau of Water Works. The Bureau of Water Works may approve any such permits only upon a finding that the activity proposed conforms with this Chapter and rules promulgated under this Chapter. Such plan review shall be conducted pursuant to City of Portland rules and practices for development review.

21.35.090 Rulemaking.

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

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SIGNS AND RELATED REGULATIONS

apply within the street setback adjacent to the identified resource or within the first 20 feet from the resource if no setback exists. The maximum height of a freestanding sign is 15 feet. The maximum size of a freestanding sign is 100 square feet. Changing image signs are prohibited. When they are more restrictive, the sign standards of the base zone supersede the regulations of this subparagraph.

32.34.030 Additional Standards in Plan Districts.

(Amended by Ordinance Nos. 176469, 179092 and 182072, effective August 22, 2008.)
Plan districts are shown on the Official Zoning Maps.

A. Albina Community plan district.

1. Where this regulation applies. The regulation of this subsection applies to signs in the Albina Community plan district.
2. Sign standard. Signs for commercial uses in the RH zone are subject to the sign regulations for the CX zone.

B. Central City plan district

1. Purpose. Signs in the Open Space zone are limited in keeping with the low intensity of most uses in the zone. However, the more intense uses allowed in Central City plan district Open Space zones necessitate more visible signage. These regulations are tailored to those uses.
2. Sign standards. The following regulations apply to sites in the Open Space zone.
 - a. The sign regulations of the CX zone apply to sites with allowed Major Event Entertainment and Commercial Outdoor Recreation uses.
 - b. The sign regulations of the CN zones apply to sites with allowed Retail Sales and Service uses.

C. Columbia South Shore plan district

1. Purpose. Signs in this plan district should not dominate the landscape or compete with views of streetscapes, view corridors and natural resources. Sign standards are intended to allow for signs to be visible to streets that abut the site, but not to interstate freeways and locations outside the

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district. Businesses are encouraged to rely on monument signs to identify and communicate their presence.

2. Where these regulations apply. The regulations of this subsection apply to signs in the Columbia South Shore plan district.

3. Sign standards.

a. Signs must conform to the sign standards of the CX zone as modified by the requirements of this subsection. When they are more restrictive, the regulations of the base zone supersede the regulations of this subsection. Adjustments to this subsection are allowed only for the sign height on sites more than 10 feet below the level of the surface of the adjacent roadway. All other sign adjustments are prohibited.

b. The following signs are prohibited:

(1) Freestanding signs, except monument signs, temporary freestanding signs, and directional signs;

(2) Changing image signs; and

(3) Awning signs with illumination internal to the awning.

c. Monument signs. One monument sign is allowed per street frontage. Monument signs are allowed to a maximum height of 6 feet above the adjacent sidewalk and a maximum of 10 feet in length. The end width of the monument structure may not exceed 2 1/2 feet. Signage may be located on two parallel monument faces.

d. Signs along Marine Drive. Signs are prohibited within 200 feet of the toe of the levee slope, except for directional signs. Between 200 and 500 feet from toe of the levee slope, signs that face Marine Drive are limited to 1/2 square foot of sign face area per lineal foot of building wall, with a maximum sign area of 100 square feet.

D. Hillsdale plan district.

1. Where this regulation applies. The regulation of this subsection applies to signs in the Hillsdale plan district.

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SIGNS AND RELATED REGULATIONS

2. Sign standard. Portable signs are prohibited in the right-of-way in the Hillsdale Plan District.

E. Macadam plan district

1. Where these regulations apply. The regulations of this subsection apply to signs in the Macadam plan district.
2. Standards.
 - a. Freestanding signs are limited to 1/2 square foot of sign face area per lineal foot of arterial street frontage. Signs attached to buildings, marquees, or other structures are limited to 1/2 square foot of sign face area per lineal foot of primary building wall. Maximum sign face area is 100 square feet.
 - b. The maximum height of a freestanding sign is 15 feet.
 - c. Changing image sign features are prohibited.

F. Portland International Raceway plan district

1. Where these regulations apply. The regulations of this subsection apply to signs in the Portland International Raceway (PIR) plan district.
2. Standard. Signs must conform to the sign program of an approved PIR Master Plan. See Chapter 33.564, Portland International Raceway Plan District.

G. South Auditorium plan district

1. Where these regulations apply. The regulations of this subsection apply to the South Auditorium plan district.
2. Standards.
 - a. Design review. Unless exempted under Subparagraphs G.2.f. and g., below, all exterior signs, regardless of size, are subject to design review. See Chapter 33.420, Design Overlay Zone.
 - b. Projecting signs. Projecting signs are prohibited.

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- c.** Signs for Retail Sales And Service uses. All signs on sites with Retail Sales And Service uses must be fascia signs. The total square footage of signs per retail tenant space must not exceed 1 square foot of sign for each lineal foot of primary building wall of tenant space.
- d.** Signs for residential-only developments. Sites developed with only residential uses are limited to one fascia sign not exceeding 10 square feet in total area.
- e.** Signs for other uses and developments. The maximum total sign area allowed per frontage for uses or developments not listed in Subparagraphs G.2.c. and d., above is 1 square foot for each 3 lineal feet of primary building wall. Only signs attached to buildings are allowed, except in a commercial zone where up to two freestanding signs per arterial street frontage are allowed. One sign is not allowed to exceed 12 feet in height and 100 square feet in area, and the other sign is not allowed to exceed 5 feet in height and 10 square feet in area. The regulations of the base zone supersede the regulations of this subparagraph when they are more restrictive.
- f.** Temporary signs, portable signs, and lawn signs. Temporary signs, portable signs, and lawn signs are exempt from the sign regulations of Subparagraph G.2.a. through e., above. Temporary signs and portable signs are limited to a total combined area of 25 square feet per site.
- g.** Directional signs. Directional signs are exempt from the sign regulations of Subparagraph G.2.c. through e., above.

H. Cascade Station plan district.

- 1.** Where this regulation applies. The regulation of this subsection applies to signs in Subdistrict A of the Cascade Station plan district.
- 2.** Sign standard. When a Cascade Station Sign Program has been approved, signs are exempt from the provisions of Chapter 32.30 through 32.38 of this Code. Until such time as a Sign Program is approved, signs will be subject to the provisions of Chapters 32.30 through 32.38.

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SIGNS AND RELATED REGULATIONS

I. Hollywood plan district.

1. Where this regulation applies. This regulation applies to signs associated with new development on sites with frontage on the Enhanced Pedestrian Streets shown on Map 536-3 in Chapter 33.536, Hollywood Plan District. Alterations or exterior improvements to existing development are exempt from this regulation.
2. Freestanding signs are prohibited.

J. North Interstate plan district.

1. Purpose. Encouraging retention of the mid-century signs identified in this subsection will represent Interstate Avenue Corridor's rich past as US Route 99, which was the West Coast's major north-south highway before Interstate 5 was built. Because their current locations may preclude desired development, allowing them to move to other locations along the corridor is necessary to ensure preservation.
2. Where these regulations apply. The regulations of this subsection apply only to signs in the North Interstate plan district listed in Paragraph J.4.
3. Relocation allowed. The special signs listed in Paragraph J.4, below, may be relocated as follows:
 - a. The sign may be moved to another location on the site where it is currently located, or to another location that meets the requirements of this subsection;
 - b. The receiving site must have frontage on North Interstate Avenue between N. Argyle St. and N. Fremont St.;
 - c. The receiving site must be zoned either EX, CX, CS, or IR;
 - d. Signs removed from their sites may be stored elsewhere before relocation;
 - e. Relocated signs are subject to discretionary Design Review. Design review will consider the location of the sign on the site, the visual relationship of the sign structure to other development on the site, and the visual relationship to North Interstate Avenue; in a content-neutral manner as provided in Section 32.38.010;

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- f.** Relocated signs that are nonconforming as to size, height, lighting, or area of changing image do not have to come into conformance with the requirements of Chapters 32.30 through 32.38. However, they may not move further out of conformance with the size, height, and lighting regulations unless an adjustment or modification is approved. Increases to the area of changing image on a relocated sign are only allowed as provided in Section 32.32.030;
 - g.** Relocated signs do not count towards the maximum sign allocation on the receiving site; and
 - h.** Relocated signs are subject to the other requirements of this Title.
- 4.** Special signs. The signs below may be relocated as specified in this subsection. The signs are:
 - a.** Street address 4333 N. Interstate Avenue, also known as “The Westerner Motel sign.”
 - b.** Street address 4024 N. Interstate Avenue, also known as “The Alibi sign.”
 - c.** Street address 5226 N. Interstate Avenue, also known as “The Crown Motel sign.”
 - d.** Street address 3801 N. Interstate Avenue #4, also known as “The Palms Motel sign.”
 - e.** Street address 6701 N. Interstate Avenue , also known as “The Viking Motel sign.”
 - f.** Street address 6423 N. Interstate Avenue, also known as “The Nite Hawk sign.”
 - g.** Street address 4739 N. Interstate Avenue, also known as “The Budget Motel sign.”
 - h.** Street address 5205 N. Interstate Avenue, also known as “The Super Value Motel sign.”
 - i.** Street address 6049 N. Interstate Avenue, also known as “The Central Bowl sign.”

Chapter 32.36

NONCONFORMING SIGNS

Sections:

- 32.36.010 Purpose.
- 32.36.020 Regulations That Apply to All Nonconforming Signs.
- 32.36.030 Documenting a Nonconforming Sign.

32.36.010 Purpose.

The intent of these regulations is to protect the character of an area by reducing the negative impacts from nonconforming signs. At the same time, the regulations assure that the signs may continue and that the sign regulations will not cause unnecessary burdens. The intent of these regulations is not to force all signs to be immediately brought into conformance with current regulations; instead, the intent is to gradually bring existing signs into conformance.

32.36.020 Regulations That Apply to All Nonconforming Signs.

(Amended by Ordinance No. 176469, effective July 1, 2002.)

- A.** Nonconforming permanent signs may continue to exist if they comply with the regulations of this chapter. Nonconforming signs that do not meet the regulations of this chapter have no legal right to continue and must be removed.
- B.** Signs established during a moratorium.
 - 1.** Generally. Signs established in violation of a moratorium must be brought into compliance with the standards of this Title, except as provided in Paragraph B.2, below.
 - 2.** Exception. Painted Wall Signs established during a moratorium, where permits were applied for before the effective date of the moratorium, are considered legal, nonconforming signs, and may remain. The effective date of the moratorium on Painted Wall Signs in the Central City plan district was December 16, 1997. The effective date of the moratorium on

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Painted Wall Signs outside the Central City plan district was August 12, 1998.

- C.** Sign maintenance, sign repair, and changing of permanent sign faces is allowed so long as structural alterations are not made and the sign is not increased in size.
- D.** Permanent signs and sign structures that are moved, replaced, or structurally altered must be brought into conformance with the sign regulations. However, nonconforming signs required to be moved because of public right of way improvements may be re-established. See paragraph 32.32.030 C.4, Removal of signs.
- E.** Nonconforming temporary signs must be removed.
- F.** Ownership. The status of a nonconforming sign is not affected by changes in ownership.
- G.** Change to a conforming sign. A nonconforming sign may be altered to become or be replaced with a conforming sign by right. Once a sign is altered to conform or is replaced with a conforming sign, the nonconforming rights for that sign are lost and a nonconforming sign may not be re-established. Unless prohibited, proposed changes that are not in conformance are subject to the adjustment process.
- H.** Loss of nonconforming sign status.
 - 1.** Discontinuance. If a there is no sign in place on a sign structure or building wall for 6 continuous months, the nonconforming rights are lost and a nonconforming sign may not be re-established. If the sign structure is unused for less than 6 continuous months, a nonconforming sign may be re-established.
 - 2.** Destruction. When a sign or sign structure is removed or intentionally destroyed, replacement signs and sign structures must comply with the current standards. However:
 - a.** Repair and maintenance. A nonconforming sign or sign structure may be removed temporarily to perform sign maintenance or sign repair. In order to preserve the nonconforming sign status, the person removing the sign must inform the Director, in writing, before the sign is removed. If the responsible party fails to inform the Director, any re-erected sign will be considered a new sign.

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- b.** Unintentional destruction. When a sign or sign structure that has nonconforming elements is partially or totally damaged by fire or other causes beyond the control of the owner, the sign and sign structure may be rebuilt to the same size and height using the same materials. An adjustment is required to allow the replacement sign to be more out of compliance with the standards than the previous sign.

32.36.030 Documenting a Nonconforming Sign.

To document legal nonconforming status, the applicant must provide evidence to show that the sign was established prior to November 18, 1998 or allowed when established, and that the sign has been maintained over time. If the applicant provides standard evidence from the lists below, the Director will determine if the evidence is satisfactory. If the applicant provides evidence other than the standard evidence listed below, a Determination of Nonconforming Sign Status Review is required, as specified in Section 32.38.040.

- A.** Sign established before November 18, 1998. If the sign was established before November 18, 1998, the applicant must provide evidence to show that the sign was established before November 18, 1998. Standard evidence that the sign was established before November 18, 1998 is:
 - 1.** A building, zoning, sign or development permit;
 - 2.** A photograph of the sign at its current location from the Official Sign Photo Inventory; or
 - 3.** A date-stamped photograph of the sign at its current location.
- B.** Sign legally established after November 18, 1998. If the sign was established after November 18, 1998, the applicant must provide evidence to show that the sign was allowed when established. Standard evidence that the sign was allowed when established is:
 - 1.** Building, zoning, sign, awning or development permits; or
 - 2.** Zoning codes or maps.
- C.** Sign maintained over time. The applicant must provide evidence to show that the sign has been maintained over time. Standard evidence that the sign has been maintained over time is:
 - 1.** Utility bills;

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2. Sign-specific property or income tax records;
3. Business licenses;
4. Listings in telephone, business, or Polk directories;
5. Advertisements in dated publications;
6. Building, sign, land use, or development permits; or
7. Records of sign lease agreements.

Chapter 32.38

LAND USE REVIEWS

Sections:

32.38.010	General.
32.38.020	Design Review and Historic Design Review.
32.38.030	Adjustment Review.
32.38.040	Determination of Nonconforming Sign Status Review.

32.38.010 General.

- A. Procedures. Land use reviews of signs are administered under the provisions of Title 33, Planning and Zoning as modified by this chapter.
- B. Adjustments and Modifications. Requests for adjustments from the regulations of Chapters 32.30 through 32.38 are reviewed under Section 32.38.030, Adjustments. Modifications from the regulations of Chapters 32.30 through 32.38 through Design Review or Historic Design Review are reviewed as specified in Chapters 33.825 and 33.846 of the Zoning Code. When the provisions of this Title prohibit adjustments, applications for adjustments will not be accepted.
- C. Content-Neutral Administration of Land Use Reviews. Notwithstanding any other provision of this Title or of related standards referenced in this Title, applications for adjustments, design review, and historic design review for signs

will be reviewed only with respect to sign structure or placement, or with reference to copy only to the extent of color or typeface and excluding any reference to message, category, subject, topic, or viewpoint.

32.38.020 Design Review and Historic Design Review.

Where design review or historic design review is required by this Title, the awning or sign will be reviewed in accordance with the provisions of either Zoning Code Chapter 33.825, Design Review or Chapter 33.846, Historic Review.

32.38.030 Adjustment Review.

- A.** Purpose. Sign adjustments are intended to allow flexibility to the sign regulations while still fulfilling the purpose of the regulations. The specific approval criteria allow signs that enhance the overall character of an area or allow for mitigation of unusual site conditions.
- B.** Procedures. The adjustment procedures stated in Chapter 33.805, Adjustments, apply to sign adjustments. However, the approval criteria of this section are used, rather than of those of Chapter 33.805 of the Zoning Code.
- C.** Approval criteria. Sign adjustments will be approved if the review body finds that the applicant has shown that the criteria of Paragraph C.1. or 2, below are met.
 - 1.** Area enhancement. The applicant must meet criteria C.1.a. and b. and either C.1.c. or d.
 - a.** The adjustment for the proposed sign will not significantly increase or lead to street level sign clutter, to signs adversely dominating the visual image of the area, or to a sign that will be inconsistent with the objectives of a specific plan district or design district; and
 - b.** The sign will not create a traffic or safety hazard; and
 - c.** The adjustment will allow a unique sign of exceptional design or style that will enhance the area or that will be a visible landmark; or
 - d.** The adjustment will allow a sign that is more consistent with the architecture and development of the site.
 - 2.** Site difficulties. If there are unusual site factors that preclude an allowed sign from being visible to the street immediately in front of the site, an adjustment will be granted to achieve the visibility standards of Subparagraph d below. This adjustment is not intended to be used to

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SIGNS AND RELATED REGULATIONS

make signs visible to other streets and rights of ways or to freeways. Site difficulties may include the sign face being blocked due to topography of the site, existing development or landscaping on the site, or from abutting development or landscaping. This set of adjustment criteria is generally intended for freestanding and projecting signs and allows greater flexibility in placement of the sign. The adjustment will be approved if all of the following criteria are found to be met:

- a. There is no reasonable place on the site for an allowed sign without an adjustment to achieve the visibility standards of Subparagraph d below;
- b. If the proposed sign extends into the right-of-way, the sign will not create a traffic or safety hazard;
- c. Of potential adjustments to meet the visibility standard of Subparagraph d., the request is the most consistent with the surrounding development and sign patterns; and
- d. The adjustment is the minimum needed for a sign to meet the following visibility standards:

Posted Road Speed	Visibility To Travel Lanes On The Street In Front Of The Site
35 mph or less	200 feet
40-50 mph	300 feet
55 mph or more	400 feet

32.38.040 Determination of Nonconforming Sign Status Review.

- A. Purpose. This review determines if a sign has legal nonconforming sign status.
- B. When this review is required. A Determination of Nonconforming Sign Status Review is required where a land use review or permit for a sign is requested, and the applicant does not provide standard evidence or the Director does not find the evidence to be satisfactory. This review also may be requested by an applicant when it is not required.
- C. Procedure. Determination of Nonconforming Sign Status Reviews are processed through a Type II procedure. See Zoning Code Chapter 33.730, Quasi-Judicial Procedures.

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- D.** Approval criteria. The legal nonconforming status of a sign will be certified if the review body finds that the applicant has shown that the following approval criteria have been met. The applicant must show that the sign meets criteria D.1. and either criteria D.2 or D.3:
1. The sign has not been moved, structurally altered, or increased in size since November 17, 1998; and
 2. The sign existed before November 18, 1998; or
 3. The sign would have been allowed when established.

Chapter 32.40

GENERAL

Sections:

32.40.010 General.

32.40.010 General.

The regulations in Chapters 32.40 through 32.44 are construction regulations which work in combination with Title 24, Building Regulations, and Title 26, Electrical Regulations. These standards are not land use regulations. The standards in Chapter 32.42 require signs to be compatible with the structural and electrical standards of the State Building Code. These standards apply to all signs at all locations.

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Chapter 32.42

**STRUCTURAL AND
ELECTRICAL REGULATIONS**

Sections:

- 32.42.010 Construction and Structural Requirements.
32.42.020 Electrical Requirements.
32.42.030 Maintenance Requirements.

32.42.010 Construction and Structural Requirements.

- A.** Structural standards.
1. Signs, sign structures, sign foundations and methods to attach and anchor signs must be designed and constructed in accordance with applicable provisions of the Building Code. All signs and their foundations and attachments must be designed for the appropriate dead and seismic loads. Exterior signs must also be designed to support appropriate snow and wind loads.
 2. Signs erected within 5 feet of an exterior wall opening must be constructed of noncombustible or other approved materials.
 3. The supports and foundations used in construction for all signs and sign structures must be located outside of any rights-of-way. Portable signs may be located in the right of way if they meet the standards of Subsection 32.32.030 B, Signs extending into the right-of-way.
 4. Welds of sign structures must be welded in accordance with the Building Code. Welding must be done by approved welders as provided in the Building Code.
- B.** Engineering standards. Signs, sign structures, sign foundations and anchorages to a building must be individually designed in accordance with the Building Code and the provisions of this Title.
Exceptions:
1. Pre-Approved sign designs. The Director may approve structural sign designs which can be used for more than one sign at more than one site. Subsequent permit applications can reference pre-approved sign designs.

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Requests for pre-approved sign designs must include appropriate plans and calculations prepared and stamped by an Oregon licensed engineer. The following types of sign designs may be pre-approved:

- a.** Freestanding signs that are symmetrically balanced on the sign structure and sign foundation, that have a maximum of 200 square feet of sign area, and that have a maximum height from the lowest ground level below the sign to the top of sign of 25 feet.
 - b.** Freestanding signs that are asymmetrically balanced on a sign structure and foundation, that have a maximum of 200 square feet of sign area, and that have a maximum height from the lowest level of ground below the sign to the top of the sign of 25 feet.
 - c.** Projecting wall mounted signs that have a maximum of 200 square feet of sign area and that provide at least 8 feet below the sign to the highest ground level. Pre-approved sign designs for projecting signs will be limited to the attachment methods and materials and the wall materials specified in the request and approved by the Director.
- 2.** Flush mounted signs. Signs that are mounted flush to a wall if the sign does not weigh more than 7 pounds per square foot or, in total, weigh more than 400 pounds.
- 3.** Temporary banners. Temporary banners less than 50 square feet in area, must be attached to a structure at least at the four corners of the banner. Temporary banners 50 square feet in area or larger must be attached the structure at least at the 4 corners and at the midpoints of the two longest sides. Temporary banners may be attached as prescribed in this paragraph along the top edge and weighted at the bottom edge.
- 4.** Permanent banners. Permanent banners must be attached to a structure in one of the following manners:
 - a.** Continuously along two sides of the banner for the full dimension of the banner; or
 - b.** At each corner of the banner and at intervals no greater than 18 inches along the perimeter of the banner.

C. Clearances.

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SIGNS AND RELATED REGULATIONS

- 1.** Vision clearance areas.
 - a.** Vision clearance areas. Vision clearance areas are triangular-shaped areas located at the intersection of any combination of rights-of-way, alleys or driveways. The sides of the triangle extend 15 feet from the intersection of the vehicle travel areas. See Figure 15a and b. The height of the vision clearance area is from 42 inches above the ground to 10 feet above the ground immediately below the sign or awning. See Figure 15c.
 - b.** Signs in vision clearance areas. Signs may not be located within a vision clearance area as defined in this paragraph. Support structures for a sign may only be located in a vision clearance area if the combined total width is 12 inches or less and the combined total depth is 12 inches or less.
- 2.** Vehicle area clearances. In areas outside of rights-of-way, when a sign or awning extends over where vehicles travel or are parked, the bottom of the structure must be at least 14 feet above the ground. Vehicle areas include driveways, alleys, parking areas, and loading and maneuvering areas.
- 3.** Pedestrian area clearances. When a sign or awning extends over a sidewalk, walkway or other space used by pedestrians, the bottom of the structure must be at least 8 feet above the ground. Free-hanging valances made of fabric or other non-rigid material hung on signs, awnings, and marquees must be at least 7 feet above of a sidewalk, walkway or other space used by pedestrians.
- 4.** Clearances from fire escapes, means of egress or standpipes. Signs, sign structures and awnings are prohibited from being erected in any manner that interfere in any way with the free use of any fire escape, means of egress or standpipe. Attaching signs, sign structures or awnings to a fire escape is prohibited.
- 5.** Obstruction of windows and ventilation. Signs, sign structures and awnings are prohibited from being installed in any way that obstructs any building openings to such an extent that light, ventilation or exhaust are reduced to a level below that required by either the Building Code; Title 25, Plumbing Regulations; Title 27, Heating and Ventilating Regulations or Title 29 Housing and Maintenance Regulations.

6. Access to signs. Access clear of all obstructions must be provided to all signs. The access path must be at least 3 feet wide and 4 feet high. In the case of an roof sign, the access must be provided above the roof and set back from any parapet.

Figure 15a
Vision Clearance Area

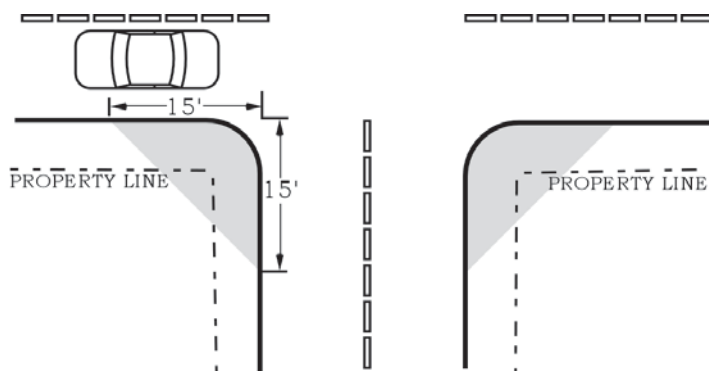
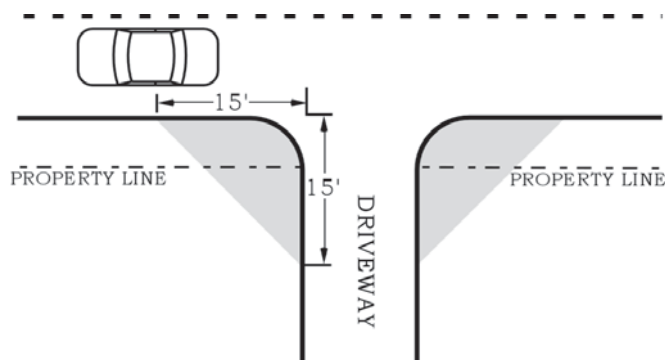
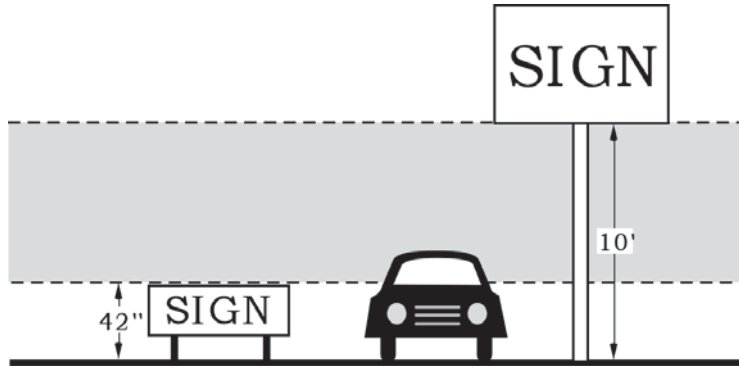


Figure 15b
Vision Clearance for Driveways



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Figure 15c
Vision Clearance Area Height



32.42.020 Electrical Requirements.

- A. Electrical components of signs and of lighting projected on a sign or to create a sign must comply with the requirements of the Electrical Code.
- B. Horizontal and vertical clearances between power conductors and signs and sign structures must be as specified in the Electrical Code.

32.42.030 Maintenance Requirements.

- A. General. Signs, sign structures and awnings, together with their supports, braces, guys, anchors and electrical components must be maintained in a proper state of repair. The Director may order the removal of any sign, sign structure or awning that is not maintained in accordance to this Title.
- B. Dangerous structures and equipment.
 - 1. Signs, sign structures or awnings that are dangerous must be taken down and removed or made safe as the Director deems necessary. Signs may be deemed dangerous for one or more of the following reasons:
 - a. Whenever a sign structure or its foundation, a sign's attachments to a building, or a building to which a sign is attached is damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability is materially less than it was before the catastrophe and is less than the minimum requirements of the Buildings Code;

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SIGNS AND RELATED REGULATIONS

- b.** Whenever any portion or member of a sign, sign structure or awning is likely to fail, or become detached or dislodged, or to collapse and thereby injure persons or property;
 - c.** Whenever any portion or member of a sign, sign structure or awning is likely to partially or completely collapse as a result of any cause, including, dilapidation, deterioration, or decay; faulty construction or wiring; or removal, movement or instability of any portion of the ground or building necessary for supporting such structure; or
 - d.** Whenever a sign, sign structure or awning is structurally or electrically unsafe or otherwise hazardous to human life or safety by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment.
- 2.** All signs, sign structures and awnings determined after inspection by the Director to be dangerous must be abated by repair, rehabilitation, demolition or removal according to the procedures specified in Title 29, Housing and Maintenance Regulations.

Chapter 32.44

**ALTERNATIVE METHODS
OF CONSTRUCTION**

Sections:

- 32.44.010 Review of Alternative Methods of Construction.
- 32.44.020 Alternative Building Construction Methods.
- 32.44.030 Alternative Electrical Construction Methods.

32.44.010 Review of Alternative Methods of Construction.

Alternative methods of construction may be approved by the Director for signs, sign structures and awnings as prescribed in this Chapter.

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32.44.020 Alternative Building Construction Methods.

The Director may approve alternative materials, designs or methods of construction other than those prescribed in the Chapters 32.42, Structural and Electrical Regulations and 32.52, Awnings. Alternative methods of construction for Section 32.42.010, Construction and Structural Requirements and 32.52.010, Structural Standards must be reviewed and approved under procedures established in the Building Code. The Director must find that the proposed design is satisfactory and complies with the intended purpose of the non-land use provisions of this Title and are at least the equivalent of that prescribed in this Title in suitability, strength, effectiveness, fire resistance, durability and safety.

32.44.030 Alternative Electrical Construction Methods.

Where there are practical difficulties in meeting the provisions of Section 32.42.020, Electrical Requirements or Section 32.52.050, Electrical Requirements, the Director may approve alternative materials, designs, or methods of construction other than those prescribed in this Title. Alternative methods of construction for Sections 32.42.020 and 32.52.050 must be reviewed and approved under procedures established in the Electrical Code. The Director must find that the proposed design is satisfactory and complies with the intended purpose of the non-land use provisions of this Title and are at least the equivalent of that prescribed in this Title in suitability and do not lessen the safety of the electrical installation.

Chapter 32.50

PURPOSE

Sections:

32.50.010 Purpose.

32.50.010 Purpose.

The regulations in Chapters 32.50 through 32.54 are construction regulations which work in combination with Title 24, Building Regulations, and Title 26, Electrical Regulations to provide structurally and electrically safe awning installations. These standards are not land use regulations. The standards in Chapter 32.52 require awnings to be compatible with the structural and electrical standards of the State Building Code. These standards apply all awnings at all locations. Chapter 32.54 prohibits the installation of strobe lights.

Chapter 32.52

AWNINGS

Sections:

32.52.010	Structural Standards.
32.52.020	Pre-Approved Designs.
32.52.030	Clearances.
32.52.040	Awnings and Signs on Awnings.
32.52.050	Electrical Requirements.
32.52.060	Maintenance.

32.52.010 Structural Standards.

- A.** Exterior awnings, including those not located over a public right-of-way and interior awnings located within malls and atriums, must comply with the provisions of Chapter 32 of the Building Code and this Title. Awnings may be fixed or retractable.
- B.** Exterior awnings must be designed to support appropriate snow and wind loads, including drifting.
- C.** Awnings and methods to attach and anchor awnings to buildings must be designed and constructed in accordance with applicable provisions of the Building Code. All awnings and attachments must be designed for the appropriate dead and seismic loads. The awning framework must be capable of supporting not less than 15 pounds per square foot of uniform load over the entire horizontal projection without consideration of snow drifting.
- D.** The supports for all awnings must be located outside of any right-of-way.
- E.** Welds of awning frames must be welded in accordance with the Building Code. Welding must be done by approved welders as provided in the Building Code.
- F.** Awning structures and anchorages to a building must be individually designed in accordance with the Building Code and the provisions of this Title, except as provided in Section 32.52.020, Pre-Approved Designs.

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32.52.020 Pre-Approved Designs.

(Amended by Ordinance No. 178172, effective March 5, 2004.) The Director may approve structural awning designs which can be used for more than one awning at more than one site. Subsequent permit applications can reference pre-approved awning designs. Requests for pre-approved awning designs must include appropriate plans and calculations prepared and stamped by an Oregon licensed engineer. Pre-approved awning designs will be subject to the following limitations:

- A.** Pre-approved designs are limited to awnings that are no more than 40 feet from the lowest ground level to the maximum height of the awning; and such awnings must comply with the pedestrian clearance requirements of Subsection 32.42.010 C, Clearances.
- B.** Pre-approved designs for awnings will be limited to the attachment methods and materials and the wall materials specified in the request and approved by the Director.
- C.** In the Design Overlay Zone, awnings using pre-approved designs are subject to Chapter 33.420, Design Review.

32.52.030 Clearances.

Awnings must be installed in accordance to the clearances specified in Subsection 32.42.010 C., Clearances.

32.52.040 Awnings and Signs on Awnings.

(Amended by Ordinance No. 178172, effective March 5, 2004.) Awnings and signs attached to or incorporated into awnings must comply with all applicable standards of Chapters 32.30 through 32.38.

32.52.050 Electrical Requirements.

- A.** Electrical components of awnings must comply with the requirements of the Electrical Code.
- B.** Horizontal and vertical clearances between power conductors and any awning must be as required in the Electrical Code.

32.52.060 Maintenance.

Awnings must be maintained according to Section 32.42.030, Maintenance. The Director may determine an awning is dangerous according to Subsection 32.42.030 B, Dangerous structures and equipment.

Chapter 32.54

STROBE LIGHTS

Sections:

32.54.010 Strobe Lights Prohibited.

32.54.010 Strobe Lights Prohibited.

Strobe lights that are visible beyond the property line are prohibited. Existing strobe lights visible beyond the property line must be removed.

Chapter 32.60

GENERAL

Sections:

32.60.010 Interpretations and Clarifications.

32.60.020 Rulemaking.

32.60.010 Interpretations and Clarifications.

- A.** The Director may issue interpretations on the meaning and intent of all chapters of this Title except Chapters 32.10 through 32.38. Such interpretations will conform to the purposes of this Title.
- B.** Where language in Chapters 32.10 through 32.38 is ambiguous or unclear, the Director may issue a statement of clarification as set out in Subsection 33.700.070 B. of the Zoning Code.

32.60.020 Rulemaking.

- A.** The Director has the authority to adopt administrative rules and supplemental regulations related to the provisions of Chapters 32.40 through 32.68 of this Title. The rules and regulations must be in conformance with the intent and purpose of this Title. The Director has the authority to administer such rules and regulations. Rules will be adopted according to the procedures in this section.

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B. Permanent rules.

- 1.** Prior to the adoption of a permanent rule, the Director will:
 - a.** Publish a notice in a newspaper of general circulation in the City. The notice must be published not less than thirty days before the hearing. The notice must identify the place, time and purpose for the hearing; a brief description of the subjects covered by the proposed rule; the final date for acceptance of written comments; the location to submit comments and the location where copies of the full set of the proposed rules may be obtained. A copy of the notice will be provided to the Office of Neighborhood Involvement at least thirty days before the hearing.
 - b.** At the hearing, a designee of the Director will hear testimony and receive written comments regarding the proposed rules. The designee will provide a recommendation to the Director. The recommendation will take into consideration the comments received.
 - c.** The Director will review the recommendation of the designee and may either adopt the proposed rule, modify or reject it.
 - d.** If a substantial modification is made to the proposed rule, the Director may adopt the modification as an Interim Rule or provide additional public review prior to adoption.
- 2.** Unless otherwise stated, all rules will be effective two weeks after adoption by the Director.

C. Interim rules.

- 1.** An interim rule may be adopted by the Director without prior notice upon a finding that a failure to act promptly will result in a serious threat of injury or hazard to the public health or public or private property. The rule will include specific reasons for the finding.
- 2.** Interim rules will be effective for a period of not longer than 180 days.
- 3.** Not more than 30 days after adoption of an interim rule, public notice of interim rules must be given by publication in a newspaper of general circulation and notice sent to the Office of Neighborhood Involvement.

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Such notice must also identify the location at which copies of the full set of the interim rules may be obtained.

- D.** All final and interim rules must be filed in the offices of the Director. All final and interim rules will be available to the public at the Development Services Center.

Chapter 32.62

PERMITS AND REGISTRATION

Sections:

- 32.62.010 Permit or Registration Required.
- 32.62.020 Application Requirements.
- 32.62.030 Review of Applications and Issuance of Permits.
- 32.62.040 Expiration.
- 32.62.050 Suspension or Revocation.

32.62.010 Permit or Registration Required.

(Amended by Ordinance No. 176469, effective July 1, 2002.)

- A.** General. No person, firm or corporation can erect, mount, install, construct, enlarge, structurally alter, move, display or electrify or connect a sign or awning, or cause the same to be done without first obtaining an awning permit, a sign permit or sign registration as provided in this section. Certain installations are exempt from permit or registration. Exemption from permit or registration does not grant authorization for any sign, sign structure or awning to be erected or structurally altered in violation of the provisions of this Title. Permanent signs that were not erected prior to November 18, 1998 nor were erected subject to a valid permit subsequent to that date, must be removed March 31, 2001, or the owner of such sign must obtain a valid permit.

The following are exempt from permit and registration:

1. Lawn signs;
2. Non-electrified directional signs;
3. Temporary banners meeting the following standards:

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- a.** Up to three banners are allowed per lot in all zones;
 - b.** Each banner may be no larger than 32 square feet in area; and
 - c.** No more than one banner can be hung on each building wall or on each separate structure.
 - 4.** Temporary fascia signs that are installed for 360 or fewer days;
 - 5.** Temporary freestanding signs that are installed for 360 or fewer days;
 - 6.** Temporary portable signs; and
 - 7.** Signs that are being re-erected following sign repair and sign maintenance. When a sign is removed for repair and maintenance, the person removing the sign must inform the Director, in writing, before the sign is removed, otherwise the re-erected sign will be considered a new sign.
- B.** Sign Permits. A sign permit must be obtained for all permanent signs other than signs on awnings. Indirect lighting for a sign requires a separate electrical permit. A sign permit must be one of the types listed below:
- 1.** Permanent sign;
 - 2.** Permanent sign with internal or direct lighting or with other electrical component;
 - 3.** Structural alteration to a sign; or
 - 4.** Structural alteration to a sign including internal or direct lighting or other electrical components.
- C.** Awning Permits. An awning permit must be obtained for all awnings and awning signs. Lighting for an awning requires a separate electrical permit. An awning permit must be one of the types listed below:
- 1.** Awning only;
 - 2.** Awning with sign; or
 - 3.** Sign addition to existing awning.

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- D.** Registration. Temporary banners, balloon signs and portable signs must be registered in accordance with this section. Signs that have been registered under this subsection are exempt from the permit requirements of Subsection B, above.

1. Temporary banners and balloon signs.

- a.** Registration requirements and time periods. The following temporary signs must be registered. Registration is limited to the time periods specified.

(1) Balloon signs. Maximum registration period is one week per calendar year.

(2) Temporary banners. The registration period for temporary banners is 30 days. The number of banners registered on a site may not exceed one for any registration period. Temporary banner registrations on a site may not exceed six registration periods in any calendar year. An individual banner may be registered for up to 6 registration periods. The following temporary banners must be registered:

(a) Banners larger than 32 square feet in area;

(b) Banners not larger than 32 square feet in area, but in excess of 3 on a single site; or

(c) Banners not larger than 32 square feet in area, but in excess of one hung on the same wall or hung on the same structure.

- b.** Temporary banners and balloon signs existing as March 1, 2001 must be registered by April 30, 2001. Banners that are not registered must either be allowed without registration under this code, be permitted as a permanent sign, or be removed. Temporary balloon signs that are not registered must be removed.

2. Portable signs.

- a.** All portable signs must be registered as provided in this section. Portable signs must be registered for either one or two years. Portable signs may be re-registered. Owners of the sign may choose either registration period for initial registration or each renewal. A Portable Sign registration is valid for the size and

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address for which the sign was specifically registered. Changes to the size or address of the portable sign require a new registration.

b. Portable signs existing on March 1, 2001 must be registered by September 1, 2001. Portable signs that are not registered must be removed.

3. Temporary fascia and temporary freestanding signs. Temporary fascia and temporary freestanding signs erected for more than 360 days must be registered. The maximum registration period is 360 days.

32.62.020 Application Requirements.

(Amended by Ordinance No. 176469, effective July 1, 2002.)

A. General. The applicant must submit an application for a sign permit, awning permit or sign registration to the Director for review. The applicant may not commence any sign or awning installation before the Director has approved the requested permit or registration. A separate application is required for each sign or awning.

B. Who may apply.

1. The owner of a site on which a sign, sign structure or awning is to be placed must be the applicant for a permit or registration. The owner may authorize another responsible party to obtain a permit or registration. The Director may require written documentation of such authorization.

2. Signs with electrical components. When a sign includes electrical components the applicant must either be a licensed State of Oregon electrical contractor or the owner of the property. Permits issued to property owners must comply with Paragraph 32.62.030 B.3.

C. General application requirements. Applications for sign and awning permits and registrations must be made in writing upon forms furnished by the Director. The Director will determine the number of copies of each document and plan required for application. The application must contain the general information specified in Paragraphs C.1 through C.6., below and the additional information specified in Subsections D. through E., below, as appropriate to the application type.

1. Address of the site on which the sign or awning is to be located;

2. Property owner's name and address;

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3. Sign owner's name and address, when different than property owner;
 4. Authorization of property owner to apply for and erect sign;
 5. Contractor's Registration number or numbers; and
 6. Applicant's name, address and telephone number.
- D.** Additional application requirements for permanent signs. In addition to the application requirements contained in Subsection C, applications for permits for permanent signs must include the following information:
1. Method of attachment to building, foundation and other construction requirements specified in the plan standards of Subsection 32.62.020 H;
 2. Electrical component specifications;
 3. Sign dimensions and area;
 4. Height of sign and height of clearances above pedestrian areas or for vision clearances;
 5. For fascia signs, the weight of the sign;
 6. Sign type;
 7. Location on the property, building or structure;
 8. A listing of existing signs on the property including type, location and size;
 9. Calculations needed to show allowed, existing and proposed sign area;
 10. A site plan, drawn to scale, showing:
 - a. Site address;
 - b. Property lines and lengths of street frontages;
 - c. Building footprint;
 - d. Length of building walls that:

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- (1) face a street and have a public entrance; and
 - (2) for tenant spaces without street frontage, walls with a public entrance and face a parking area;
 - e. Public entrance to each building and ground level tenant space;
 - f. Names of abutting street(s);
 - g. Vision clearance areas; and
 - h. North arrow;
 11. Sign elevation drawing, drawn to scale, that includes:
 - a. All details and dimensions of the sign;
 - b. Type of material and all dimensions of supports and footings;
 - c. Clearances above ground;
 - d. Height above ground;
 - e. Distance of any projecting sign extension into a right of way;
 - f. Where a sign is attached to a building, the building roof line for the wall on which the sign will be mounted; and
 - g. Type of lighting (if any).
- E. Additional application requirements for awnings. In addition to the application requirements contained in Subsection C., above, applications for permits for awnings, awnings with signs and awnings with electrical elements must include the following information:
 1. Method of attachment to building and other construction requirements specified in the plan standards of Subsection 32.62.020 H;
 2. Location of installation on wall;
 3. Clearances above ground or pedestrian walking surface;
 4. Height above ground;

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5. Distance of any extension into a right of way and relationship to curb;
 6. Type of lighting (if any); and
 7. For those awnings including signs, additional information as specified in Subsection D., above.
- F.** Registration application for temporary banners and temporary balloon signs. Applications for registration of temporary banners and temporary balloon signs must be made in writing upon forms furnished by the Director. The application must contain the following information:
1. Address of the site on which the banner or balloon sign is to be located;
 2. Property owner's name and address;
 3. Applicant's name, address and telephone number;
 4. Size of the banner or balloon;
 5. Building wall/location to mounted;
 6. Attachment/mounting method
 7. The number and size of other banners currently hung on the building and site; and
 8. Dates the banner or balloon is to be erected and removed.
- G.** Registration application for portable signs. Applications for registration of portable signs must be made in writing upon forms furnished by the Director. The application for a portable sign must contain the information specified below:
1. Portable sign owner's name, address and telephone number;
 2. Applicant's name, address and telephone number;
 3. Size, height and area of the portable sign; and
 4. For a portable sign registered to a specific site, the application must contain the following additional information:

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- a.** Address of the site on which the portable sign is to be located or the address of the site adjoining the portion of the right-of-way where the sign is to be located;
 - b.** Property owner's name and address; and
 - c.** Number of public entrances to the building on the site.
- H.** Registration application for temporary fascia and temporary freestanding signs. Applications for registration of temporary fascia and temporary freestanding signs must be made in writing upon forms furnished by the Director. The application must contain the information specified below:
 - 1.** Property owner's name and address;
 - 2.** Applicant's name, address, and telephone number;
 - 3.** Size of temporary fascia or temporary freestanding sign;
 - 4.** Location of installation on wall (for fascia signs) or on property (for freestanding signs); and
 - 5.** Dates the temporary sign is to be erected and removed.
- I.** Information on plans and drawings. All plans and drawings must be complete and drawn to scale. Line quality and contrast must be easily read and result in a readable document after photocopying, microfilming, scanning or similar reproduction. All plans and calculations must be on substantial paper. The plans must provide the appropriate wind, seismic, dead load and load combinations for each sign and awning. The plans must show the dimensions, materials, connections and attachments. If the sign or awning is to be attached to a building, the plans must contain information specifying the attachment methodology and information justifying the adequacy of building members to support the loads imposed by the sign, sign structure or awning. The plans for the foundation and attachment of permanent signs and awnings must be prepared and sealed by a State of Oregon registered engineer.
- J.** Expiration of application. An application for a permit or registration for any proposed sign or awning will be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit or registration has been issued. The Director may grant one extension for a time not to exceed 180 days. The extension must be requested by the applicant in writing.

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- K.** Delegation of Registration. The Director is authorized to establish a program that delegates registration of signs through third parties. The Director must establish the program in accordance with the procedures established in Section 32.60.020, Rulemaking.

32.62.030 Review of Applications and Issuance of Permits.

(Amended by Ordinance Nos. 176469 and 176955, effective October 9, 2002.)

A. Review of applications.

- 1.** General. Applications for sign permits and registrations will be reviewed for compliance with the requirements of this Title. Proposals for signs and awnings that are allowed without other reviews are reviewed for compliance with the requirements of this Title. The review is a nondiscretionary administrative review. Decisions on application are made by the Director and are final. The review will be done according to general operating procedures of the Bureau of Development Services and the City.
- 2.** Actions of the Director. Where the Director finds that a proposed sign or awning does not comply with this Title, the Director must either require revisions to the proposal, require additional reviews or deny the application.
- 3.** Additional reviews required. Applications for permits or registration for signs that require additional reviews, or that do not comply with the provisions of this Title, may require additional review according to procedures described in Chapters 32.38 and 32.44.

B. Issuance of permits and registrations.

- 1.** General. No sign permit or registration will be issued until the application is approved by the Director.
- 2.** Electrical sign contractor. Permits for signs containing electrical components will be issued only to an appropriately licensed State of Oregon electrical contractor or the owner of the property. Lighting for awnings or indirect lighting for signs require a separate electrical permit.
- 3.** Permits issued to property owners. Permits for signs or awnings containing electrical components will be issued to a property owner only where all work done under the permit will be performed by the owner or by a member of the immediate family of the owner and when the owner

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does not intend to sell, exchange, lease or rent the property within 6 months of final approval of the permitted work.

4. Access consent required. As a condition of permit or registration issuance, the responsible party must agree to allow access to the site for all inspections to be conducted.
5. Posting of sign permit and sticker and registration sticker.
 - a. Sign permits and stickers. A sign permit for permanent signs attached to buildings and freestanding signs must be prominently posted in a location visible from the outside of the building located closest to the location of the sign installation until such time that the sign has received final inspection and has been approved. Permanent signs must be permanently identified with a sign sticker provided by the Director.
 - b. Temporary banners, balloons, temporary fascia, temporary freestanding, and portable signs. Temporary banner, temporary balloon, temporary fascia, temporary freestanding, and portable sign registration must be identified with a registration sticker for each registration period. Stickers must be affixed to the approved banner, balloon, fascia or freestanding sign, or approved portable sign in a location that is visible from the right-of-way. Registration stickers must remain affixed and visible for the entire registration period during which the sign is visible from the right-of-way.
6. Identification. The installer of a permanent sign or permanent banner must display on the sign or banner the installer's name and date of installation.

32.62.040 Life of Permit and Registration Limited.

(Amended by Ordinance No. 176469, effective July 1, 2002.)

A. Sign and awning permits.

1. Initial permit. If no inspection approval has taken place within six months of issuance of a sign or awning permit, the permit is void, and no further work may be done at the premises until a new permit has been secured and a new fee paid. Each time an inspection approval is granted, the permit is deemed to be automatically extended for six months, until final approval is granted.

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2. Extensions. The Director may extend a permit for one period of six months upon finding that the permittee was unable to commence or continue work for reasons beyond his or her control. A request for permit extension must be in writing and must be received by the Director before the permit expiration date. If an inspection approval has not been granted within this extended time period, the permit is void. A permit may be extended only once under the standards of this subparagraph.
3. Renewals. A permit that has been expired for six months or less may be renewed provided no changes have been made in the original plans and specifications for such work. A permit may be renewed only once. No permit that has been expired for more than six months may be renewed.

B. Registration.

1. Temporary banners. Each registration for a temporary banner is valid for a maximum of 30 days. A banner may be registered for a maximum of 6 times in a calendar year.
2. Balloon signs. Registration for temporary balloons is valid for a maximum of one week. Balloon registrations may not be extended or renewed.
3. Portable signs. Registration for portable signs is valid for either 1 or 2 years as requested by the applicant. At the end of each registration period, portable sign registration must be renewed or the sign must be removed from display. There is no limit to the number of renewals for a portable sign registration.
4. Temporary fascia or temporary freestanding signs. Registration for temporary fascia and temporary freestanding signs is valid for a maximum of 360 days. Registrations may not be extended or renewed.

32.62.050 Suspension or Revocation.

The Director may suspend or revoke a permit or registration issued under the provisions of this Title. The Director will inform the permit holder of the suspension or revocation in writing. Permits and registrations may be suspended or revoked when:

- A. The permit or registration is issued in error;
- B. The permit or registration is issued on the basis of incorrect information supplied by the applicant; or

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- C.** The permit or registration is issued in violation of any of the provisions of this Title.
- D.** A registered portable sign has been the subject of multiple citations.

Chapter 32.64

INSPECTION

Sections:

- 32.64.010 General.
- 32.64.020 Inspections.
- 32.64.030 Refusal of Entry.

32.64.010 General.

- A.** The Director may conduct inspections whenever it is necessary to enforce any provision of this Title, to determine compliance with this Title or whenever the Director has reasonable cause to believe there exists any violation of this Title.
- B.** Inspections will occur at reasonable times of the day. If the responsible party is at the site when the inspection is occurring, the Director or authorized representative will first present proper credentials to the responsible party and request entry. If such entry is refused, the Director will have recourse to any remedy provided by law to obtain entry, including obtaining an administrative search warrant.

32.64.020 Inspections.

- A.** Signs and awnings with permits. The Director will conduct the following inspections on signs and awnings for which a permit has been issued. The permit holder must notify the Director at the appropriate inspection phases that the work is ready for inspection. Inspections are required at the following stages of construction:
 - 1.** Foundation, anchorage, attachments and other structural support of the sign, sign structure and awning.

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2. Electrical connections of the sign, sign lighting or awning lighting. No person may make connections of a sign, sign lighting or awning lighting to a power source until all electrical components and connections have been approved.
 3. Final sign installation to determine compliance with the approved plans.
- B.** Registered signs. The Director will conduct random inspections to determine compliance of registered banners, balloons, temporary fascia, temporary freestanding, and portable signs with the provisions of this Title.
- C.** Other inspections. The Director may conduct other inspections not specifically addressed above to determine compliance with this Title.
- D.** Re-inspections. The Director may conduct re-inspections whenever a sign or awning is found not to be in compliance with this Title or with the issued permit or registration.

32.64.030 Refusal of Entry.

No person may refuse entry or access to a site of a permitted or registered sign or awning to any authorized representative of the Director who provides proper credentials and requires entry for the purpose of conducting an inspection. In addition, no person may obstruct, hamper or interfere with representatives of the Director while in the process of carrying out their official duties.

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Chapter 32.66

ENFORCEMENT

Sections:

- 32.66.010 Violations.
- 32.66.020 Civil Penalties and Fees.
- 32.66.030 Citations.
- 32.66.040 Stop Work Orders.
- 32.66.050 Review by the Director.

32.66.010 Violations.

- A.** The following constitute violations of this Title:
 - 1.** Any failure, refusal or neglect to comply with any provision of this Title;
 - 2.** Allowing or causing a condition that threatens to injure the public health or safety, or threatens to damage public or private property; or
 - 3.** Any failure, refusal or neglect to correct or remove any sign, awning, strobe light, banner or balloon that does not comply with the provisions of this Title, after being required to do so by the Director.
- B.** Each specific incident and each day of non-compliance will be considered a separate violation of this Title.

32.66.020 Civil Penalties and Fees.

(Amended by Ordinance No. 176469, effective July 1, 2002.) A violation of this Title may result in assessment of civil penalties or enforcement fees, as provided below:

- A.** Civil penalties.
 - 1.** For each separate violation, a civil penalty of up to \$1,000 may be assessed.
 - 2.** In determining the amount of any civil penalty to be assessed, the Director will consider the following:
 - a.** The nature and extent of the responsible party's involvement in the violation;

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- b.** The benefits, economic, financial or otherwise, accruing or likely to accrue as a result of the violation;
- c.** Whether the violation was isolated and temporary, or repeated and continuing;
- d.** The magnitude and seriousness of the violation;
- e.** The City's cost of investigation and remedying the violation;
- f.** Any other applicable facts bearing on the nature and seriousness of the violation.

B. Administrative enforcement fees.

- 1.** In addition to other penalties and fines, the Director may charge a penalty in the form of a monthly enforcement fee for any violation that meets the following conditions:
 - a.** Either a citation, as described in Section 32.66.030, Citations, or a stop work order, as described in Section 32.66.040, Stop Work Orders, has been issued;
 - b.** A response period of at least 30 days has passed since the citation or stop work order became final; and
 - c.** The violation, as described in the initial citation of violation or stop work order or any subsequent citation or stop work order, has not been corrected, inspected and approved.
- 2.** The monthly enforcement fee is \$150 per violation. If the responsible party does not have all violations corrected, inspected and approved within six months from the date of the initial citation or stop work order, then monthly enforcement fees will subsequently be \$300 per violation.
- 3.** Once the monthly enforcement fees begin, they will continue until all violations identified in the initial citation or stop work order, or any subsequent citations or stop work orders, have been corrected, inspected and approved.
- 4.** The responsible party must notify the Director when the responsible party believes that all violations listed in the initial citation or stop work order,

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or any subsequent citations or stop work orders, have been corrected. Upon confirmed receipt of such notice, the Director will promptly schedule an inspection of the violation and will notify the responsible party if any violations remain uncorrected.

5. When a violation meets the conditions for charging an enforcement fee as described in this Section, the Director will file a statement with the City Auditor that identifies the property, the amount of the monthly fee, the amount of citations fines, and the date from which the charges are to begin. The Auditor will then:
 - a. Notify the responsible party of fines and enforcement fees;
 - b. Record a property lien in the Docket of City Liens;
 - c. Bill the responsible party monthly for the full amount of the accumulated fines and enforcement fee owing, plus additional charges to cover the administrative costs of the City Auditor; and
 - d. Maintain lien records until:
 - (1) The lien and all associated interest, fines, penalties and costs are paid in full; and
 - (2) The Director certifies that all violations listed in the initial and any subsequent citations or stop work orders have been corrected, inspected and approved.

- C. Portable sign penalties. In addition to other penalties and fees established in this section, where a registered or temporary portable sign has been the subject of multiple citations, the Director may either impound the sign, or revoke the registration of a sign or prohibit future portable sign registrations to the owner of the sign, or any combination of these actions. The Director may charge, in addition to any other fine, the administrative costs of impounding a portable sign.

32.66.030 Citations.

- A. If the Director has reasonable belief that a violation has occurred, the Director may issue a citation. The citation may be personally delivered to the responsible party, or may be delivered by Registered or Certified Mail to the responsible party. The citation will include:

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1. A reference to the particular section or sections of this Title that have been or are being violated;
 2. A short and plain statement of the matters asserted or charged;
 3. A statement of the amount of the applicable penalties; and
 4. A reference to the process by which the responsible party may request review by the Director.
- B.** The responsible party cited as violating this Title must, within 15 days of receiving the citation, pay to the City the stated penalty or request review by the Director. If, after review by the Director, the Director upholds the civil penalty, payment of the penalty must be received by the City or postmarked no later than 15 days after the review determination becomes final.

32.66.040 Stop Work Orders.

- A.** When any work is being in violation of this Title, the Director may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If the Director issues a stop work order, the responsible party may not resume work until such time as the Director gives specific approval in writing. The stop work order will be in writing and will include:
1. The date that the order is issued;
 2. The permit or registration number, where applicable;
 3. The site address, legal description or project location that is subject to the order;
 4. A description of the violations that have been observed; and
 5. The conditions under which the work may resume.
- B.** The stop work order will be posted by the Director at a conspicuous location at the site. In addition, a copy of the order will either be personally delivered to the responsible party, or delivered by Registered or Certified Mail to the responsible party. If the responsible party is not the property owner, a copy of the stop work order will also be sent to the property owner.

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- C.** It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order.
- D.** A stop work order is effective upon posting.
- E.** When an emergency condition exists, the Director may issue a stop work order orally. The Director will then issue a written order as provided under Subsection A., above, within one working day.

32.66.050 Review by the Director.

- A.** If a responsible party has received a written citation or stop work order as described in this Chapter and the responsible party believes the citation or order has been issued in error, the responsible party may request that the citation or order be reviewed by the Director. The responsible party must submit a written request to the Director within 15 days of the date of the citation or order. The written request shall be submitted together with all evidence that supports the responsible party's request. Work subject to a stop work order may not be resumed until approved according to Section 32.66.040, Stop Work Orders. Following review, the Director will issue a written determination. The Director's determination will be served on the responsible party by regular mail.
- B.** A responsible party may appeal the Director's written determination to the Code Hearings Officer in accordance with Chapter 22.10 of Portland City Code.
- C.** Nothing in this Chapter limits the authority of the Director to initiate a code enforcement proceeding under Title 22, Hearings Officer for any violations of this Title.

Chapter 32.68

FEES

Sections:

- 32.68.010 General.
- 32.68.020 Sign Permit Fees.
- 32.68.030 Fee refunds.

32.68.010 General.

Before any permit or registration required by this Title may be issued, the applicant must pay a permit or registration fee to the City as specified in this Title.

32.68.020 Sign Permit Fees.

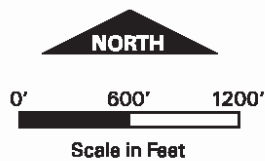
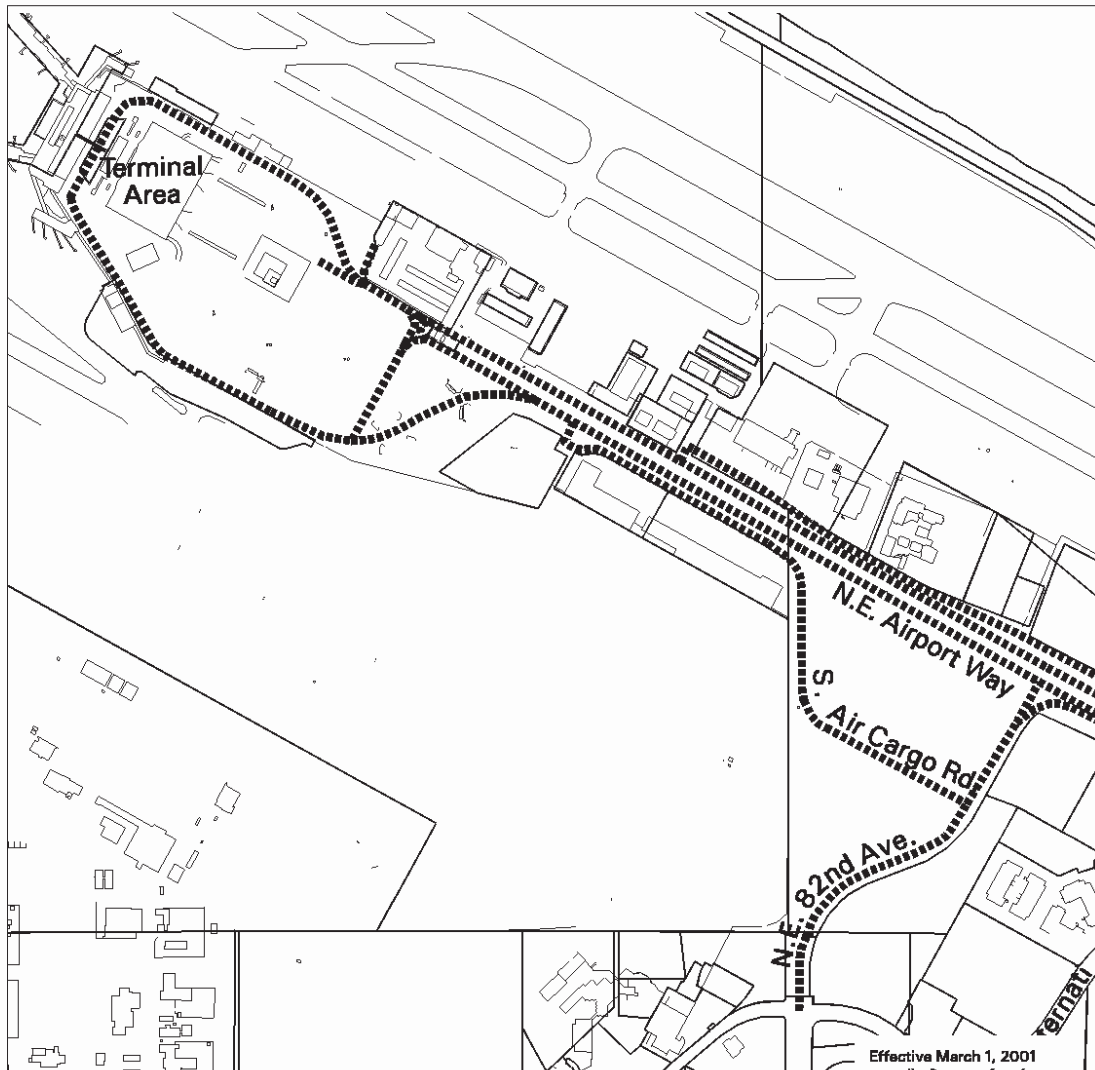
All required fees are stated in the Fee Schedule adopted by City Council. Fees will be updated annually or on an as needed basis. The approved Fee Schedule will be available at the Development Services Center.

32.68.030 Fee Refunds.

Fee refunds may occur according to this section. Exceptions to the requirements of this section may be made by the Director.

- A.** Permit, registration and plan check fees will, as a general rule, be refunded when the services covered by the fee have not commenced, or the permit, registration or plan review fees were paid incorrectly due to an error on the part of the City. When a permit applicant requests a refund, but the City was not at fault in accepting payment, fees will be retained to cover the cost of plan review or inspections actually performed and 20 percent of the amount remaining.
- B.** State surcharge fees are only refundable when a permit was issued in error.
- C.** Requests for refunds must be made within six months of payment, permit issuance or registration issuance, whichever occurred last.
- D.** Refunds are to be made to the same person or firm who paid the fee.

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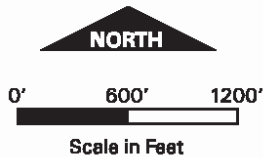
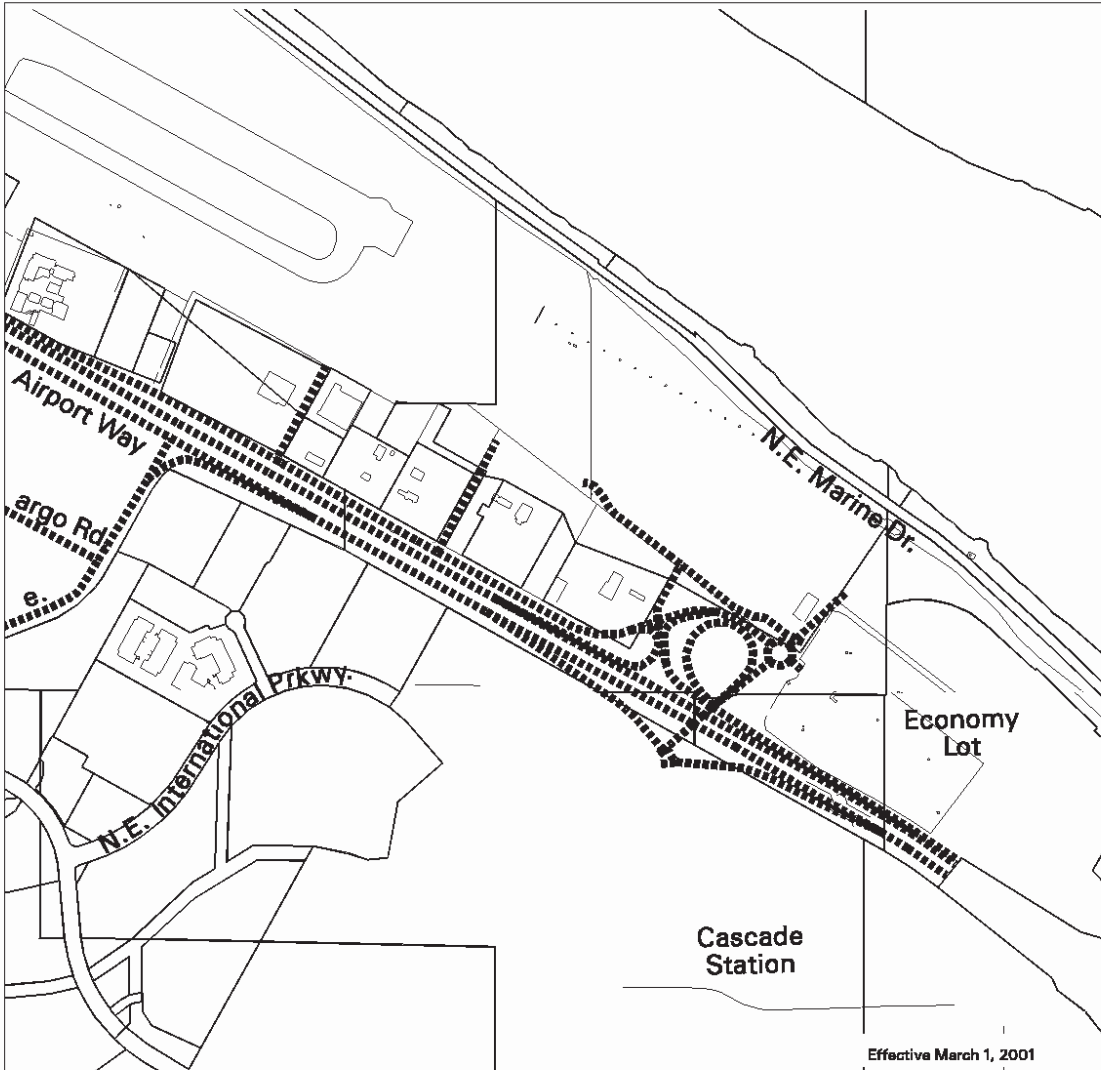


Map 1
Portland International Airport
Sign Exception

----- Exception Streets

Note: Portland International Airport street right-of-way widths extend to abutting lease lines. Where no abutting lease lines exist, the right-of-way will be defined as within 15 feet of the outside curb line or edge of pavement.

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Map 2

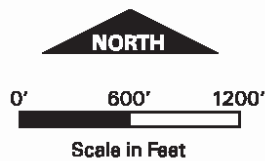
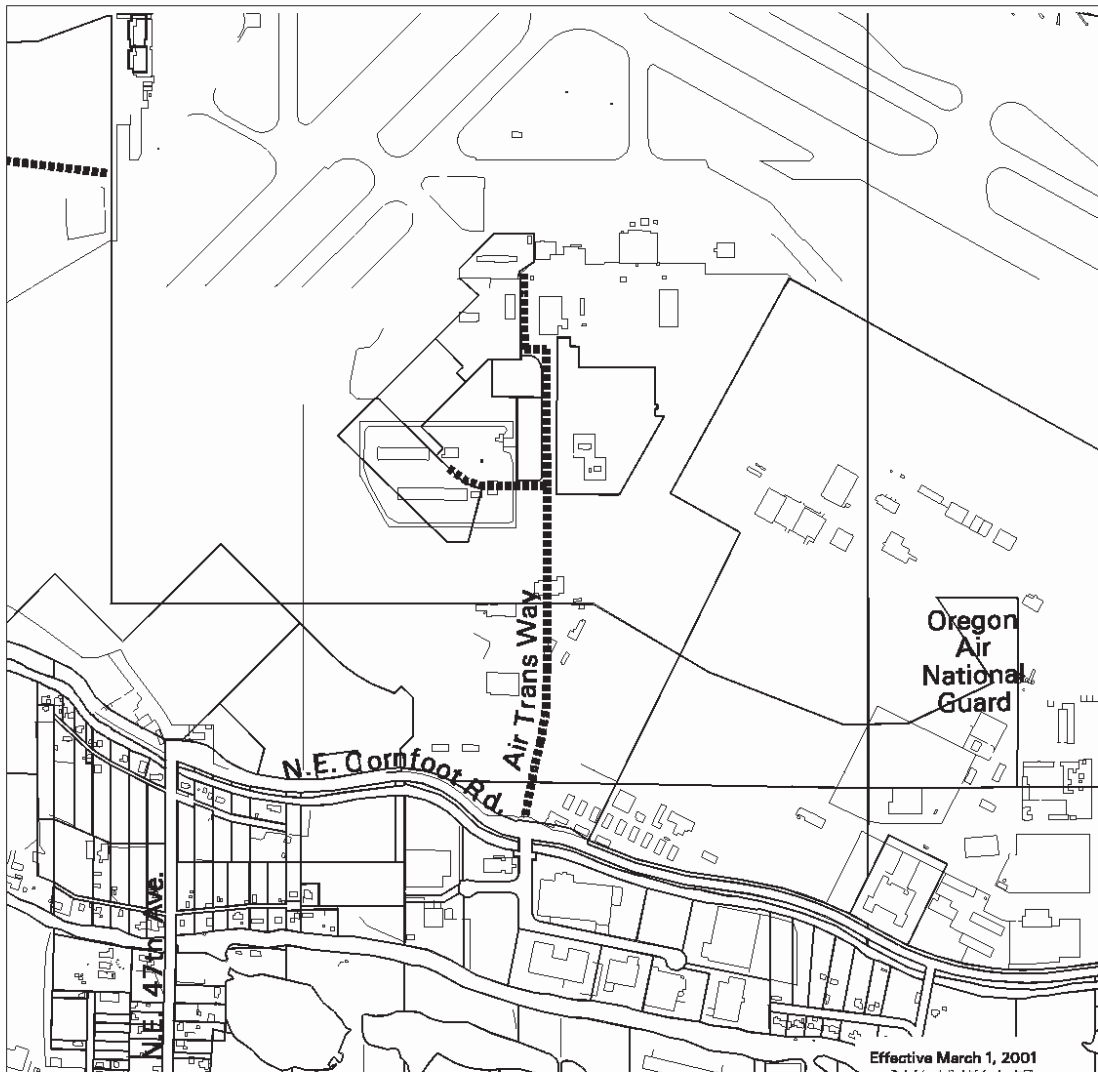
Portland International Airport Sign Exception

----- Exception Streets

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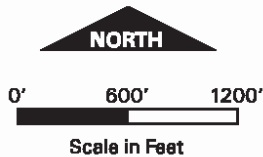
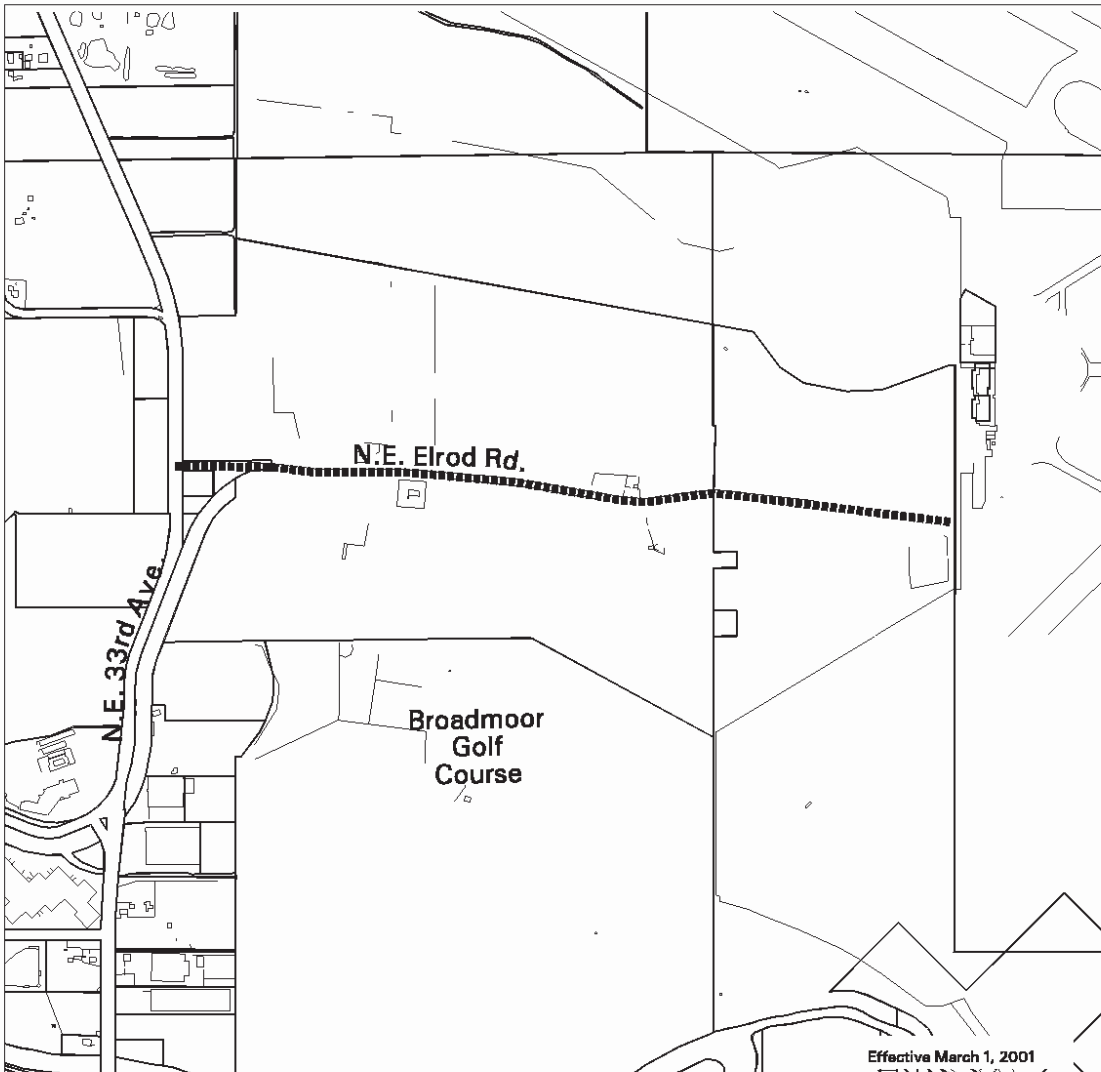
Map 3

Portland International Airport Sign Exception

----- Exception Streets

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Map 4

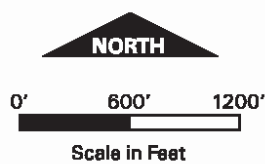
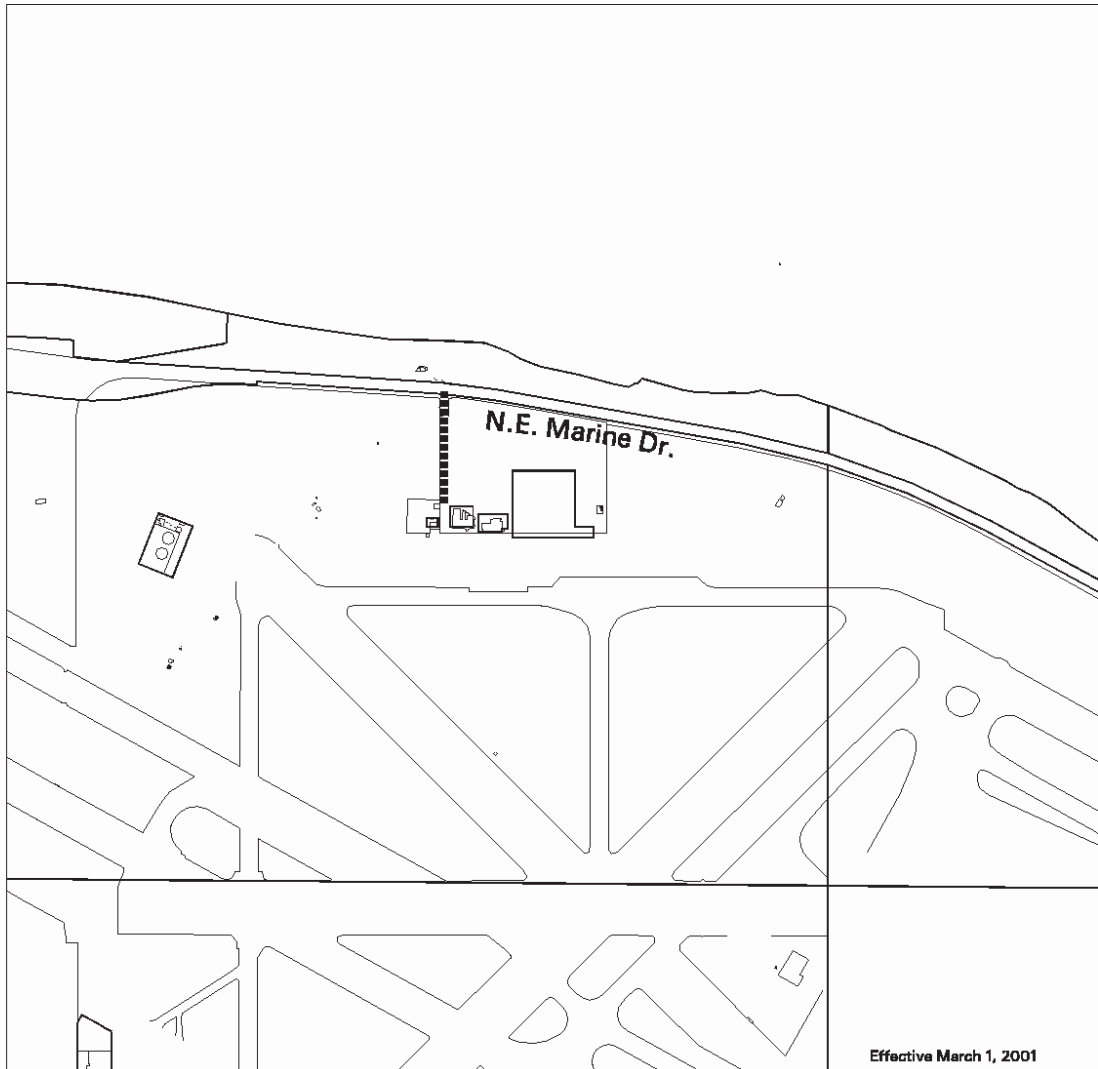
Portland International Airport Sign Exception

----- Exception Streets

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SIGNS AND RELATED REGULATIONS



Map 5

Portland International Airport Sign Exception

■■■■■■■ Exception Streets

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