

## UPDATE INFORMATION SHEET

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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.**

<b>Update Packet Enclosed</b>	<b>December 31, 2009</b>
Previous Update Packet	September 30, 2009



**Insertion Guide for Code Revisions**  
**Office of the City Auditor 503-823-4082**  
**4th Quarter 2009 (December 2009)**

[illegible]



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2. The member first named shall act as chairperson.

**N. Adjournment.**

1. A motion to adjourn shall require an affirmative vote of a majority of the Council Members present and shall be decided without debate.
2. When a motion to adjourn has been put to a vote, and it has failed, it shall not be considered again until some other business has been considered.

**3.02.050 Authority to Adopt Rules, Procedures and Forms.**

(Added by Ordinance No. 177787, effective August 13, 2003.) The Auditor is authorized to adopt rules, procedures, and forms to implement the provisions of Chapter 3.02.

**Chapter 3.04**

**SUBPOENA POWERS**

**3.04.010 Power Granted by Charter - Witness Duties and Rights.**

For the purpose of compelling the attendance of witnesses or the production of books, documents or other evidence as authorized by the Charter, the Mayor, or the Auditor when directed by the Council or by a committee duly authorized thereto, may cause a subpoena to be issued under his hand and the seal of the City and may cause the subpoena to be served by a police officer. The manner of service and the witness fees and mileage to be paid shall be the same as are now or as may be prescribed by State law for witnesses in the Circuit Court of the State for Multnomah County. It is unlawful for any person so subpoenaed and served to neglect or refuse to attend at the proper time and place and to bring with him or her such book or books document or documents, or other objects mentioned in the subpoena, or, having done so, to refuse or neglect to answer such questions as may be applicable to the matter under investigation or to exhibit such portions of such book or books, document or documents, or other thing as may pertain thereto; provided, that such witness shall not be required to answer any question or to act in violation of his rights under the constitutions of the State or of the United States.

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**Chapter 3.05**

**CITY AUDITOR'S AUDIT  
SERVICES DIVISION**

(New Chapter substituted by Ordinance No. 170381,  
effective Aug. 16, 1996.)

**Sections:**

3.05.010	Independence.
3.05.020	Scope of Audits.
3.05.030	Annual Audit Plan.
3.05.035	Special Audits.
3.05.040	Access to Records and Property.
3.05.045	Confidential Information.
3.05.050	Bureau Response.
3.05.060	Audit Reports.
3.05.065	Report of Irregularities.
3.05.070	Contract Auditors, Consultants and Experts.
3.05.080	External Quality Control Review.

**3.05.010      Independence.**

- A.**      The Audit Services Division is hereby created within the City Auditor's Office, answerable directly to the City Auditor in accordance with City Charter.
- B.**      The Audit Services Division will adhere to generally accepted government auditing standards in conducting its work and will be considered independent as defined by those standards.
- C.**      If the Audit Services Division conducts an audit of an activity for which the City Auditor is or was responsible, the audit scope will state that the auditors are not organizationally independent with regard to the entity being audited.

**3.05.020      Scope of Audits.**

- A.**      The Auditor shall conduct financial and performance audits of all bureaus, offices, boards, activities, functions and agencies of the City of Portland to independently determine whether:

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1. Activities and programs being implemented have been authorized by City Charter or Code, state law or applicable federal law or regulations;
  2. Activities and programs are being conducted in a manner contemplated to accomplish the objectives intended by City Charter or Code, state law or applicable federal law or regulations;
  3. The activities or programs efficiently and effectively serve the purpose intended by City Charter, Code, state law or applicable federal law or regulations;
  4. Activities and programs are being conducted and funds expended in compliance with applicable laws;
  5. Revenues are being properly collected, deposited and accounted for;
  6. Resources, including funds, property and personnel, are adequately safeguarded, controlled and used in a faithful, effective and efficient manner;
  7. Financial and other reports are being provided that disclose fairly and fully all information that is required by law, that is necessary to ascertain the nature and scope of programs and activities and that is necessary to establish a proper basis for evaluating the programs and activities;
  8. There are adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls which have been established by management; or
  9. Indications of fraud, abuse or illegal acts are identified for further investigation.
- B.** Audits shall be conducted in accordance with Government Auditing Standards for financial and performance audits issued by the Comptroller General of the United States.

**3.05.030 Annual Audit Plan.**

- A.** By the beginning of each fiscal year, the Auditor shall submit an annual audit plan to Council for review and comment. The plan shall include the bureaus, offices, boards, activities, functions and agencies scheduled for audit during the year. This plan may be amended during the year after review with Council members affected by the change. Additionally, the Auditor may spontaneously initiate and conduct any other audit deemed necessary to undertake.

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- B.** In accordance with independence provisions of generally accepted government auditing standards, the authority for selection of audit areas shall reside solely with the City Auditor.

#### **3.05.035 Special Audits.**

- A.** Council members may request that the Auditor perform special audits that are not included in the annual audit plan. After consultation with Council members whose work would need to be postponed, special audits may become amendments to the annual audit plan.
- B.** Special audit reports will be handled the same as regular audit reports, except that in personnel matters of a confidential nature, reporting of results may be limited to the Commissioner in Charge and the Mayor.

#### **3.05.040 Access to Records and Property.**

All officers and employees of the City of Portland shall furnish the Auditor with requested information and records within their custody regarding powers, duties, activities, organization, property, financial transactions and methods of business required to conduct an audit or otherwise perform audit duties. In addition, they shall provide access for the Auditor to inspect all property, equipment and facilities within their custody. If such officers or employees fail to produce the aforementioned information, then the Auditor, subject to Council approval, may, without fee, cause a search to be made and exhibits to be taken from any book, paper or record of any such official or employee, excepting personal information, and every office having the custody of such records shall make a search and forward such requested exhibits to the Auditor.

#### **3.05.045 Confidential Information.**

(Added by Ordinance No. 183217, effective October 30, 2009.) The Auditor shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of records for any unlawful or unauthorized disclosure. The Auditor shall maintain the confidentiality of information submitted in confidence and the identity of the provider of such information to the extent allowed by law, except as the Auditor deems necessary to discharge the Auditor's duties or as directed by the District Attorney pursuant to a public records request or by a court of competent jurisdiction.

#### **3.05.050 Bureau Response.**

A final draft of each audit report will be forwarded to the audited bureau and the Commissioner in Charge for review and comment before it is released. The bureau must respond in writing specifying agreement with audit findings and recommendations or reasons for disagreement with findings and/or recommendations, plans for implementing solutions to identified problems and a timetable to complete such activities. The response

must be forwarded to the Auditor within the time frame specified by the Auditor. The Auditor will include the full text of bureau and Commissioner responses in the report.

**3.05.060      Audit Reports.**

- A.** Each audit will result in a written report.
- B.** Reports are to be issued promptly so as to make information available for timely use by Council, management and other interested parties.
- C.** The Auditor will submit each audit report to the Council and will retain a copy in his/her office as a permanent record.
- D.** If appropriate, the audit report shall contain the professional opinion of the Auditor or the contract auditor concerning the financial statements issued by the bureau, board or agency or if the audit is a performance audit, the report will contain the professional conclusions of the audit regarding the management activities audited.
- E.** Audit reports issued by the Auditor shall contain:
  - 1.** A statement of audit objectives and a description of the audit scope and methodology;
  - 2.** A statement that the audit was performed in accordance with generally accepted government auditing standards;
  - 3.** A description of all significant instances of non-compliance and abuse and all instances of illegal acts found during or in connection with the audit;
  - 4.** A full discussion of audit findings and conclusions, including the cause of problem areas and recommendations for necessary or desirable action;
  - 5.** A statement of all significant management controls that were assessed and any significant weaknesses found;
  - 6.** Pertinent views of responsible officials concerning audit findings, conclusions and recommendations;
  - 7.** A listing of any significant issues needing further study and consideration;
  - 8.** A description of noteworthy accomplishments of the audited organization.

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#### **3.05.065 Report of Irregularities.**

If the Auditor detects apparent violations of law or apparent instances of malfeasance or nonfeasance by an officer or employee or information that indicates derelictions may be reasonably anticipated, the Auditor shall report the irregularities to the Commissioner in Charge and the Mayor. If the irregularity is criminal in nature, the Auditor shall immediately notify the City Attorney and the District Attorney in addition to those previously cited.

#### **3.05.070 Contract Auditors, Consultants, and Experts.**

Within budget limitations, the Audit Services Division may obtain the services of certified public accountants, qualified management consultants, or other professional experts necessary to perform audit services. An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the governmental unit or its officers. The Auditor's Audit Services Division will coordinate and monitor auditing performed by public accounting or other organizations employed under contract by the City of Portland to assist with audit related activities.

In choosing the outside independent auditors to conduct the City's annual financial statement audit, the Auditor will convene a committee of at least three City bureau managers, including the Auditor or his/her representative to prepare a request for proposal and to screen applicants. The Auditor's selection of a certified public accounting firm for the annual financial audit must be approved by Council. Normally, this contract will be for a three to five year period.

#### **3.05.080 External Quality Control Review.**

The Audit Services Division of the City Auditor's Office shall be subject to peer review at least once every three years by a professional, non-partisan objective group utilizing guidelines adopted by the National Association of Local Government Auditors. The review will evaluate compliance with generally accepted government auditing standards. A copy of the written report of any such independent review shall be furnished to each member of the City Council.



**Chapter 3.06**

**DEPARTMENTS, BUREAUS AND  
DIVISIONS GENERALLY**

**Sections:**

- 3.06.010      Departments Enumerated.
- 3.06.020      Bureaus and Divisions.
- 3.06.030      Acting Chief of Bureau or Office.

**3.06.010      Departments Enumerated.**

The administrative service of the City shall be divided into the following executive departments:

- A.**      Department of Public Affairs;
- B.**      Department of Public Safety;
- C.**      Department of Public Utilities;
- D.**      Department of Public Works;
- E.**      Department of Finance and Administration.

Each department shall be headed by a Commissioner.

**3.06.020      Bureaus and Divisions.**

The various functions and activities of the government of the City shall be assigned to bureaus, divisions, or other administrative units as herein provided by ordinance from time to time. The bureaus and activities assigned thereto shall be distributed to the departments by order of the Mayor.

**3.06.030      Acting Chief of Bureau or Office.**

(Added by Ordinance No. 135664, effective Dec. 6, 1972.) Unless specifically provided otherwise by ordinance, in the absence because of illness, disability, vacation or leave of absence, and upon resignation, retirement or discharge, of the chief of any bureau or office, whose duties are general by virtue of that position, his chief assistant or deputy shall serve as acting chief and perform the duties of chief without additional compensation, until the Council, the Commissioner In Charge or the superior official in charge directs assigns or otherwise or a permanent successor is designated and takes office.

## **TITLE 3 ADMINISTRATION**

### **Chapter 3.08**

#### **TREASURER**

(New Chapter substituted by  
Ordinance No. 151419, effective  
Sept. 19, 1984.)

#### **Sections:**

- 3.08.010 Office.
- 3.08.020 Salary - Bond.
- 3.08.030 Duties of City Treasurer.
- 3.08.040 Duties of Deputy Treasurer.
- 3.08.050 Treasurer Authorized to Deposit in Banks.
- 3.08.060 Liability of Treasurer for Deposit of Funds.
- 3.08.070 Council May Require Additional Security from Banks.
- 3.08.080 City Officers or Agents to Pay Money to the City Treasurer.

#### **3.08.010 Office.**

(Amended by Ordinance No. 158556, effective June 4, 1986.) The Treasury Division of the Office of Fiscal Administration shall consist of the City Treasurer, Deputy Treasurer, and such employees as the Council may provide.

#### **3.08.020 Salary-Bond.**

The salary of the City Treasurer shall be fixed by ordinance and payable out of the General Fund in the same manner and at the same time as other salaries are paid. A surety bond, payable to the City of Portland, in the sum of \$200,000 shall secure the faithful performance of City Treasurer duties.

#### **3.08.030 Duties of City Treasurer.**

(Amended by Ordinance Nos. 158556 and 177246, effective March 7, 2003.) Except as provided in this Chapter, the sole duty of the City Treasurer shall be the investment of all City funds in accordance with all statutes relating to investment of public funds, and in accordance with the City's current investment policy. The Treasurer may delegate to other City officials any duties or responsibilities assigned to the Treasurer by Charter, Code or statute relating to the foreclosure of delinquent liens.

#### **3.08.040 Duties of Deputy Treasurer.**

(Amended by Ordinance Nos. 158556 and 173369, effective May 12, 1999.) The Deputy Treasurer shall be responsible for all operations and functions of the Treasury, excluding the investment function. These operations shall consist of ensuring that checking

## **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.
7.02.230	Confidentiality.
7.02.240	Persons to Whom Information May be Furnished.
7.02.250	Taxfiler Representation.
7.02.255	Representation Restrictions.
7.02.260	Information Request; Examination of Books, Records or Persons.
7.02.270	Records.
7.02.280	Deficiencies and Refunds.
7.02.290	Protests and Appeals.
7.02.295	Business License Appeals Board.
7.02.300	Certificates of Compliance.
7.02.310	Duplicate Certificates of Compliance.
7.02.330	Account Merger or Division.
7.02.350	License Tax Year Term.
7.02.400	Exemptions.
7.02.500	Tax Rate.
7.02.510	Registration Form and Tax Return Due Dates.
7.02.520	Quarterly Estimates.
7.02.530	Schedule for Payment of Estimated Tax.
7.02.545	Tax Returns.
7.02.550	Presumptive Tax.
7.02.560	Payment Plan Fee.
7.02.600	Income Determinations.
7.02.610	Apportionment of Income.
7.02.620	Changes to Federal and/or State Tax Returns.
7.02.630	Income Long Term Construction Contract Methods.
7.02.700	Penalties.
7.02.710	Interest.
7.02.715	Payments Applied.
7.02.720	Interest on Refunds.
7.02.730	Criminal Penalties for Violation of the Business License Law by City Employee or Agent.

7.02.800	Refundable Credit.
7.02.810	Credits Issued.
7.02.820	Obligations of Participating Businesses.
7.02.830	Collection and Remittance of Donations to “Work for Art,” a Program of the Regional Arts & Culture Council.
7.02.840	Frivolous Filing.
7.02.850	Hacking.
7.02.860	First Year Adjustment Credit.
7.02.870	Business Retention Credit for Qualifying Investment Management Firms.

### **Chapter 7.03**

### **TEMPORARY BUSINESSES**

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.

### **Chapter 7.12**

### **PUBLIC SERVICE PERMITS, FRANCHISES AND REGULATIONS**

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.

### **Chapter 7.14**

### **UTILITY LICENSE LAW**

7.14.005	Short Title.
7.14.010	Fees for Revenue.
7.14.020	License Required.
7.14.030	Administration.
7.14.040	Definitions.
7.14.050	Application and Issuance.
7.14.060	Fees and Payment.

7.14.065	Limitations.
7.14.070	Deductions.
7.14.080	Reports and Review of Records.
7.14.085	Refunds by City to Licensee.
7.14.090	Appeals.
7.14.100	Interest.
7.14.110	Civil Penalties.
7.14.120	Collection of Delinquencies.
7.14.130	Confidential Financial Information.

## **Chapter 7.22                    STREET AND SIDEWALK USE PERMITS**

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.

## **Chapter 7.24                    TOWING AND PAY AND PARK FACILITIES**

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.

## **Chapter 7.26                    REGULATION OF PAYDAY LENDING**

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.

**Chapter 7.02**

**BUSINESS LICENSE LAW**

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

**Sections:**

7.02.005	Short Title.
7.02.010	Fees for Revenue.
7.02.020	Conformity to State Income Tax Laws.
7.02.100	Definitions.
7.02.110	Income Defined.
7.02.200	Administration.
7.02.210	Administrative Authority.
7.02.220	Presumption of Doing Business.
7.02.230	Confidentiality.
7.02.240	Persons to Whom Information May be Furnished.
7.02.250	Taxfiler Representation.
7.02.255	Representation Restrictions.
7.02.260	Information Request; Examination of Books, Records or Persons.
7.02.270	Records.
7.02.280	Deficiencies and Refunds.
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7.02.350	License Tax Year Term.
7.02.400	Exemptions.
7.02.500	Tax Rate.
7.02.510	Registration Form and Tax Return Due Dates.
7.02.520	Quarterly Estimates.
7.02.530	Schedule for Payment of Estimated Tax.
7.02.545	Tax Returns.
7.02.550	Presumptive Tax.
7.02.560	Payment Plan Fee.
7.02.600	Income Determinations.
7.02.610	Apportionment of Income.
7.02.620	Changes to Federal and/or State Tax Returns.
7.02.630	Income Long Term Construction Contract Methods.
7.02.700	Penalties.
7.02.710	Interest.

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### **BUSINESS LICENSES**

7.02.715	Payments Applied.
7.02.720	Interest on Refunds.
7.02.730	Criminal Penalties for Violation of the Business License Law by City Employee or Agent.
7.02.800	Refundable Credit.
7.02.810	Credits Issued.
7.02.820	Obligations of Participating Businesses.
7.02.830	Collection and Remittance of Donations to “Work for Art,” a Program of the Regional Arts & Culture Council.
7.02.840	Frivolous Filing.
7.02.850	Hacking.
7.02.860	First Year Adjustment Credit.
7.02.870	Business Retention Credit for Qualifying Investment Management Firms.

#### **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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**BUSINESS LICENSES**

- 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.

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- 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, 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.

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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.**

(Amended by Ordinance No. 182427, effective January 16, 2009.)

- 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 100 percent of that amount towards tax payments due and owing for the 2008 license tax year. If that credit amount exceeds the tax amount due for the 2008 license tax year, the City will issue a refund for the difference or credit the overpayment forward to the next tax year if requested by the taxpayer.

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

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

- A. An Investment Management Firm is entitled to a credit against the total amount of its business license tax due. The business retention credit is determined by subtracting from the business license tax due the greater of
  1. \$6,000 times the number of owners, not including limited partners, subject to the Compensation Deductions allowed in Section 7.02.600 or

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2. 30 percent of the total business license tax otherwise due. If the resulting difference is a negative number, the amount of the credit will be zero. Any allowed credit not used in a particular year will not be refunded and will not be carried forward to a succeeding tax year, except as provided in Subsection B.
- B.** For purposes of this credit, the “first tax year” would be a tax year in which the Investment Management Firm is doing business in the City of Portland and either
1. The Investment Management Firm was not doing business in the City of Portland in the prior tax year or
  2. The prior tax year began prior to January 1, 2009.
    - a. In the first tax year, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the third of three consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
    - b. In the second consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the fourth of four consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
    - c. In the third consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection a. above.
    - d. In the fourth consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection b. above.
- C.** “Investment Management Firm” means a taxpayer that satisfies each of the following requirements during the tax year that the credit is sought:

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- 1.** At least 90 percent of the firm's gross income for the tax year must consist of fees that are
    - a.** Received from Diversified Investing Fund or from persons unrelated to the firm, and
    - b.** Determined as a percentage of the value of assets managed by the firm (including payments to the firm from their parties if the payments are credited against or offset such fees in whole or in part).
  - 2.** At least 90 percent of the assets managed by the firm must consist of Qualifying Investment Securities.
  - 3.** A majority of the voting interests in the firm must be owned by persons who received compensation from the firm that is subject to the Owner's Compensation Deduction in Section 7.02.600.
  - 4.** The firm was physically located within the City of Portland boundaries at the end of the tax year.
- D.** The terms "Diversified Investing Fund" and "Qualified Investment Securities" have the meanings as defined by Administrative Rule.
- E.** This credit is available for tax years beginning on or after January 1, 2009.

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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**

**UTILITY LICENSE LAW**

(Replaced by Ordinance No. 182432,  
Effective January 15, 2009.)

**Sections:**

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

**7.14.005 Short Title.**

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

**7.14.010 Fees for Revenue.**

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

**7.14.020 License Required.**

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



**7.14.030 Administration.**

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

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will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not longer than 180 days.

#### 7.14.040 Definitions.

(Amended by Ordinance No. 182527, effective March 13, 2009.)

- A. **“Bureau”** means the Office of Cable Communications and Franchise Management of the City of Portland, Oregon, along with its employees and agents, or such other bureau as the City Council may designate.
- B. **“Cable Communications Utility”** means a business that provides cable service or telephone service to subscribers, including voice services delivered through the use of Internet protocol, through its own cable system or a cable system owned by another person.
- C. **“Director”** means the Bureau Director.
- D. **“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 Subsection 1.
- E. **“Gross revenue”** means any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts, from the sale of electrical energy, gas, district heating or cooling, or water, or sewage disposal and treatment service, and for use, rental, or lease of operating facilities of the utility engaged in such business, from the furnishing or sale of communications or associated services by or from a telecommunications or cable communications business.
  - 1. Gross revenue of a telecommunications utility means revenues derived from exchange access services.
  - 2. Gross revenues do not include proceeds from:
    - a. The sale of bonds, mortgages, or other evidence of indebtedness, securities, or stocks, or sales at wholesale by one utility to another of electrical energy when the utility purchasing such electrical energy is not the ultimate consumer; or

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- b.** Public purpose charges collected by a utility selling electrical energy or gas. For purposes of this Subsection, “public purpose charges” means a charge or surcharge to a utility customer that the utility is required or authorized to collect by federal or state statute, administrative rule, or by tariff approved by the Oregon Public Utility Commission, that raises revenue for a public purpose and not as compensation for either the provision of utility services or for the use, rental, or lease of the utility’s facilities within the City. “Public purpose” includes energy efficiency programs, market transformation programs, low-income energy efficiency programs, carbon offset programs and other types of programs designed to benefit utility customers within Oregon and the City.
- F.** “**Licensee**” means any person or entity coming within the provisions of the Utility License Law, whether or not application has been made or a utility license has been issued.
- G.** “**Telecommunications utility**” has the meaning provided in ORS 759.005(9) (2007).
- H.** “**Utility**” means the business of supplying electrical energy, gas, district heating or cooling, water, cable, communications, or other services through or associated with telecommunications utility, telephone or coaxial cable, sewage disposal and treatment, and other operations for public service but does not include transportation service, railroad operations, or services otherwise licensed under this Title.

**7.14.050      Application and Issuance.**

- A.** Any person, including any bureaus of the City, operating a utility coming within the provisions of the Utility License Law shall file an application for a utility license on forms supplied by the Bureau.
- B.** A person is not required to apply for or obtain a utility license if all its revenues earned from operations as a utility otherwise meet the criteria for deduction under Section 7.14.070. The Director may exercise the authority under Section 7.14.080 to require reports and review records to determine whether revenues are qualified for deduction under Section 7.14.070.
- C.** Applications for utility licenses shall be filed with the Bureau on or before December 31 for each subsequent calendar year. In the case of any person operating a utility coming within the provisions of the Utility License Law which commences operations within the City after January 15, 2009, the person

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operating such utility shall apply for a utility license on or before the date of commencing such operations. The application shall include such information as the Director may require in order to determine whether the utility has paid the license fee owed.

- D.** Upon receiving a completed application, together with any payment due, the Director shall issue a utility license to the applicant. A utility license shall be valid for no longer than one year. Each utility license shall expire on December 31 of the year of issuance.
- E.** The Director shall prepare application forms and make them publicly available. Failure to receive or secure a form shall not relieve any person from the obligation to obtain a license and pay a license fee under the Utility License Law.

#### **7.14.060 Fees and Payment.**

- A.** Except as provided in Sections 7.14.065 and 7.14.070, the fee for a utility license shall be measured by a percentage of the gross revenues earned by the utility for each quarter year period of licensed operation. The percentage for each type of utility shall be as follows:

Electrical Utility	5.0 percent
Gas Utility	5.0 percent
Sewer Utility	7.5 percent
District Heating or Cooling Utility	5.0 percent
Water Utility	7.5 percent
Telecommunications Utility	7.0 percent
Cable Communications Utility	5.0 percent

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

- B.** The licensee shall pay the utility license fee to the Bureau on the following basis: on or before May 15 the fee for the period extending from January 1 through March 31, inclusive, of the same calendar year; on or before August 15 the fee for the period extending from April 1 through June 30, inclusive, of the same calendar year; on or before November 15 the fee for the period extending from July 1 through September 30, inclusive, of the same calendar year; on or before February 15 the fee for the period extending from October 1 through December 31, inclusive, of the preceding calendar year. All such payments shall be subject to the deductions set forth in Section 7.14.070.

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- C. A licensee commencing operations as provided in Subsection 7.14.050 C. shall make the initial payment to the Bureau on or before the payment date following the first quarter year period after commencing operations. In the event a licensee terminates operations which come within the provisions of the Utility License Law, the final payment shall be made on or before the 45th day following the date of such termination.

**7.14.065      Limitations.**

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 percent of gross revenues at which point they will increase to equal 5 percent of gross revenues those fees. The directors of the Bureau of Environmental Services and Portland Water Bureau are authorized to adopt administrative rules establishing mechanisms to implement this limitation.

**7.14.070      Deductions.**

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

**7.14.080      Reports and Review of Records.**

- A. Each person paying a utility license fee shall simultaneously file a report to the Bureau in a form satisfactory to the Director. The report shall show the licensee's calculations of the license fee, the licensee's gross revenues earned within the corporate limits of the City, and any deductions against the licensee's gross revenues or the amount of the utility license fee. Such reports shall be verified by the licensee or an authorized agent to the effect that all statements made therein are true.
- B. If a person asserts that any provision of federal, state or local law imposes a limit upon the amount of utility license fees which the City may impose or require from

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a licensee, the licensee claiming to be within such limitation shall identify in its utility license fee report the specific federal, state or local law, and the service it provides that it claims is subject to the exception.

- C.** Every person required to be licensed under the Utility License Law shall keep and preserve for not less than three (3) years such documents and records, including state and federal income or excise tax returns, accurately supporting the information required to be reported on the licensee's application and calculation of utility license fee for each license year.
- D.** The Director shall have authority to arrange for and conduct reviews of all financial records relevant to the calculation of a licensee's payments to the City under the Utility License Law. The Director shall make all requests for review in writing. The Director may determine the scope of review in each instance.
  - 1.** The Director may examine any books, papers, records, invoices, and other data needed to determine the accuracy of any license fee due. Such records and documentation shall be open for inspection or examination by the Director or a duly authorized agent. The Director shall have the authority, after notice, to:
    - a.** Require the attendance of any person required to be licensed under the Utility License Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Director may designate;
    - b.** Take testimony, with or without the power to administer oaths to any person required to be in attendance. The Director may designate employees who shall have the power to administer oaths. Such employees shall be notaries public of the State of Oregon; and,
    - c.** Require proof for the information sought, necessary to carry out the provisions of the Utility License Law.
  - 2.** If a licensee has not provided copies of all information reasonably within the scope of the review to the Director within 30 days from the date of the written request, the licensee shall provide the Director with access to the requested records within the Portland metropolitan region, during normal business hours, upon 48 hours prior written notice.
  - 3.** If the Director requests in writing that the licensee provide, or cause to be provided, copies of any information reasonably within the scope of the review, and the licensee fails, refuses or neglects to provide copies within

30 days of receipt of the Director's written request, then the three (3) year periods under Subsections 7.14.080 C. and 7.14.120 A. shall be extended by one day for each day or part thereof beyond 30 days that the licensee fails to provide, or fails to cause to be provided, such requested information.

4. If any licensee fails, refuses or neglects to provide or make records available to the Director for determining the amount of utility license fees due or payable, the Director may determine the amount of the utility license fees due or payable based upon readily-available facts and information. The Director shall notify the licensee in writing of the amount of such fee so determined, together with any penalty or interest due. The total of such amounts shall thereupon become immediately due and payable. The licensee may seek to establish the correct amount by appeal to the Code Hearings Officer under Section 7.14.090. In such an appeal, the licensee shall have the burden of establishing that the Director's determination is incorrect, either in whole or in part.

**7.14.085 Refunds by City to Licensee.**

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

**7.14.090 Appeals.**

- A. Any person who has received a written determination from the Director applying the provisions of the Utility License Law may appeal such determination of the Director to the Code Hearings Officer of the City as provided in Chapter 22.10 of this Code.
- B. The filing of any notice of appeal shall not stay the effectiveness of the Director's determination unless the Code Hearings Officer so directs.

**7.14.100 Interest.**

- A. If a person fails to pay to the City all or any part of the utility license fee on or before the date on which the fee is due, interest shall be due on the entire unpaid amount, assessed at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the fee to



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the 15th day of the month following the date of payment. Payment of interest charges shall be due at the same time as the unpaid utility license fee is due.

- B.** For purposes of calculating interest under Subsection 7.14.100 A., the amount of the utility license fee due shall be reduced by the amount of any fee payments received by the Bureau on or before the due dates for fee payment established in the Utility License Law.
- C.** Interest amounts properly assessed in accordance with this Section may not be waived or reduced by the Director.

#### **7.14.110 Civil Penalties.**

- A.** The Director may assess civil penalties for any of the following violations of the Utility License Law:
  - 1.** Any failure to file a license application at the time required under the Utility License Law;
  - 2.** Any failure to pay the utility license fee when due;
  - 3.** Any failure to file a utility license fee report when due;
  - 4.** Any failure to provide or make available all books, financial records, papers, invoices, documents, data and related information when required by the Director; or,
  - 5.** For any person to make any false statement on any license application or utility license fee report or to provide false information in any investigation or audit conducted pursuant to the Utility License Law.
- B.** The Director may assess civil penalties for any violation under Subsection 7.14.110 A. of up to two percent (2%) of the utility's gross revenues subject to the Utility License Law for the period during which the violation occurred.
- C.** In assessing civil penalties under this Section, the Director shall produce a written decision, identifying the violation, the amount of the penalty, and the basis for the decision. In making such determination, the Director shall consider the following criteria:
  - 1.** The extent and nature of the violation;
  - 2.** Any benefits to the licensee and any impacts to the City or the general public, financial or otherwise, resulting from the violation;



3. Whether the violation was repeated and continuous, or isolated and temporary;
  4. Whether the violation appeared willful (characterized primarily by substantial acts of commission) or negligent (characterized primarily by substantial acts of omission);
  5. The magnitude and seriousness of the violation;
  6. The City's costs of investigating the violation and correcting or attempting to correct the violation; and,
  7. Any other factors the Director deems relevant in the particular case.
- D.** The Director may waive or reduce any civil penalty for good cause, according to and consistent with written policies.

**7.14.120 Collection of Delinquencies.**

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

**7.14.130 Confidential Financial Information.**

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

- A.** The disclosure to, or the examination of, financial records by City officials, employees or agents for the purpose of administering or enforcing the terms of the Utility License Law, or collecting utility license fees imposed under the terms of the Utility License Law, or collecting City business license fees;

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

**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.)

**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.

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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.

**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.

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**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.

**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

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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 31<sup>st</sup>.
- 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.

- 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.

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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

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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 20<sup>th</sup> 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 20<sup>th</sup> 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.

- 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. 182298, effective November 28, 2008.)

- A. Purpose. The purposes of this Section are to ensure that the regulation of parking at pay and park and non-pay private parking facilities is applied objectively with proper notice; and to protect fairness and convenience for the parking public.
- 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 has no effect on 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 have the definitions given in this Section:
  1. "Administrative Fee" means a fee assessed by a department of motor vehicles for the purpose of determining the registered owner of a vehicle.
  2. "Boot" means a mechanical device attached to a vehicle to prevent its movement.
  3. "Director" means the Director of the Revenue Bureau or his or her designee.
  4. "Operator" means any person or entity whose business includes assessing and collecting penalties at registered parking facilities.
  5. "Park" means to leave a vehicle standing for more than 5 minutes with no driver at the wheel.

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6. "Parker" means any person in control of any vehicle that is parking at a registered parking facility.
7. "Payment device" means any device capable of accepting or receiving parking fee payments by cash or credit card and issuing sequentially numbered receipts or tickets.
8. "Penalty" means an amount assessed for failure to pay, or properly display proof of payment, for parking at a pay and park facility or for unauthorized or over-time parking at a non-pay private parking facility.
9. "Penalty payment letter" means the letter that must be sent by the operator to the registered owner if payment of the penalty is not received by the operator within 10 days of the date the penalty notice was affixed to a vehicle.
10. "Penalty notice" means the notice affixed to vehicles parked without payment, parked without properly displaying proof of payment or parked without authorization at a registered facility, and which is the initial demand for payment.
11. "Registered Facility" means a parking lot or structure that is accessible to the public that has been registered with the Revenue Bureau and is either:
  - a. A non-pay private parking facility at which the free parking or storage of vehicles is limited by time or authorization by the property owner/operator; or
  - b. A pay and park facility that is open for parking or storage of vehicles by the general public, at which a fee must be paid for parking, where payment of parking fees is enforced by issuance of penalty notices, and where parkers receive a receipt or ticket at the time of payment that has the parking expiration time printed on it.

"Registered Facility" does not include property used for governmental purposes by any agency or special district.
12. "Second penalty payment letter" means the letter that must be sent by the operator to the registered owner if payment of the penalty is not received by the operator within 30 days of the mailing date of the first penalty demand for payment letter.

**D. Authorization.**

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- 1.**     **Enforcement.** The Director is authorized to enforce all provisions of this Section.

    - a.**     **Investigation.** The Director has the power to investigate any and all complaints regarding alleged violations of this Section.
    - b.**     **Inspection.** The Director may inspect any operator records required to be maintained pursuant to this Section. Such records must be made available for inspection during normal business hours within 24 hours of notice by the Director.
    - c.**     **Delegation.** The Director may delegate the authority provided under this Section to any City employee or agent thereof.
  - 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.**     Before the Director adopts a rule, a public hearing must be conducted. The Director must give notice of the public hearing in a reasonable manner not less than 10 nor more than 30 days before the hearing. The notice must include the place and time of the hearing; where copies of the full text of the proposed rules may be obtained; and a brief description of the proposed rules.
    - b.**     During the hearing the Director will consider oral and/or written testimony. The Director will adopt, modify or reject the proposed rule based on the testimony received. Unless otherwise stated, all rules are effective upon adoption by the Director and will be kept on file at the Bureau. Copies of all rules will be made available to the public upon request.
    - c.**     Notwithstanding Subsections a. and b. above, the Director may adopt an interim rule without prior public notice upon a finding by the Director that failure to act promptly would result in serious prejudice to the public interest. In so doing, the Director must include the specific reasons for such prejudice. Any rule adopted pursuant to this subsection will be effective for a period of not longer than 180 days.
- E.**     **Registration as the operator of a facility.** No person may assess any penalty at any facility unless that person is in compliance with the provisions of this Section.

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- 1.** Applications. An applicant for registration as an operator of a facility must submit to the Bureau:
  - a.** The name, address and telephone number of the applicant;
  - b.** Proof of valid insurance as described in this Section;
  - c.** A sample copy of the proposed penalty notice;
  - d.** A sample copy of the proposed penalty payment letters;
  - e.** The name, address and telephone number of any collection agency that may be employed by the operator for collection of delinquent payments;
  - f.** Such other information relating to the purposes of this Section as the Director may require.
- 2.** Penalty notices, penalty payment letters and any subsequent demands for payment must include:
  - a.** The name, address and telephone number of the operator;
  - b.** The vehicle's make, model, color and license plate number;
  - c.** The time and date the penalty notice was issued;
  - d.** The exact location of the facility;
  - e.** Any facility number that may be assigned by the operator;
  - f.** The amount of the penalty demanded;
  - g.** Instructions describing deadlines and acceptable methods of payment;
  - h.** Warning that an Administrative Fee may be assessed if the payment of the penalty is not received within 10 days of issuance of a penalty notice;
  - i.** Any additional penalty that may be added if not paid within 30 days; and

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- j. A statement that the vehicle owner may submit a written complaint to the Revenue Bureau if attempts to resolve the complaint with the operator have been unsuccessful anytime within 90 days of the date of the first penalty payment letter. The Bureau's mailing address must be included on penalty payment letters.
  - 3. The penalty notice must not represent to be a document issued by any government agency or government official, or otherwise simulate legal or judicial process. The penalty notice form is subject to review and approval by the City Attorney's Office.
  - 4. The Bureau must approve all notices and letters. If a proposed penalty notice or penalty payment letter is rejected by the Bureau, it will be returned to the applicant for amendment and resubmission without additional fees. If such documents have previously been approved by the City and if no changes to the Section have been made, it is not necessary to resubmit them with each new location application. Changes to penalty notices and letters proposed by the operator must be approved by the Bureau before they are implemented.
  - 5. The Director shall reject any incomplete application.
- F. Registration of a facility. No operator shall assess any penalties at any facility unless it is registered with the Revenue Bureau.
  - 1. Application. To register a facility with the Bureau an operator must submit:
    - a. A written request from the registered operator that includes the facility's number (designated by the operator) and the facility's address;
    - b. A drawing of the facility showing adjacent street names, facility entrances and exits, and location of payment devices;
    - c. A nonrefundable registration fee for each facility in an amount as required by Administrative Rule.
  - 2. 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 and its officers and employees free and harmless, and shall defend and indemnify the City for any claims for damage to property or injury to person that may be occasioned by any work and/or services furnished or carried on under the terms of registration.

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3. The Director shall inspect an operator's facility following receipt of the written request for registration, the facility drawing, and the registration fee. If the Director determines that a facility complies with this Section's requirements, the Director will issue a registration certificate to the operator for the facility. If the Director determines that the facility does not comply with this Section's requirements, the application will be denied and notice will be sent to the operator that lists the requirements the facility failed to meet. If an application is denied, the operator may resubmit the application without payment of additional registration fees at any time within 60 days of the notice date if the deficiencies noted in the original denial have been corrected. Only one such reapplication without payment of registration fees may be made with respect to each facility. If upon such reapplication the registration is again denied, the operator must file a new facility application accompanied by the required registration fee.
4. Facility registrations are valid from the date of issuance until the last day of that same month the following year.
5. Reporting Changes. Operators must notify the Director of any changes to the operator's office location, contact information, and insurance provider prior to implementation of the change. Operators must also notify the Director of any changes to a facility that affect a parker's use of the facility including, but not limited to, location of entrances and exits and location of a payment machine. Changed facilities must be reinspected before any penalty notices are issued.
6. Renewal. The Bureau will send invoices for facility registration renewal to all operators at least 1 month prior to the expiration date. Registrations will be renewed upon payment of the nonrefundable fee for each facility as required by the Administrative Rules.
7. Non-assignability. A registration issued or renewed pursuant to the provisions of this Section is not assignable or otherwise transferable.
- G.** Payment device. Payment devices must be placed and maintained at pay and park facilities in locations convenient and accessible to all parkers.
- H.** Signage requirements. All signs required pursuant to this Section must be unobstructed, reflectorized and visible during all hours of operation. All signs required to be posted at a facility entrance must be no more than 10 feet from the entrance, must be located within 2 feet of the property line, and the center of such sign must be at least 4 feet from the ground.

**1. Pay and Park Signage.**

- a.** Pay and Park facilities must have a sign posted at each entrance (in letters at least 7 inches high) stating either "PAY TO PARK ALL HOURS," or "PAY TO PARK POSTED HOURS." For facilities with a "POSTED HOURS" sign, the sign must also state (in letters at least 3 inches high) the exact hours that the facility is operated as a pay and park facility.
- b.** At each facility containing a payment device, there must be a sign (in letters at least 9 inches high) visible from every vehicle entrance stating "PAY HERE," indicating the location of the payment device.
- c.** At each payment location there must be a sign(s) that states (in letters at least 2 inches high):
  - (1)** all applicable charges for parking including the posted hours at a "PAY TO PARK POSTED HOURS" facility;
  - (2)** that proof of payment must be displayed and clearly visible through the windshield;
  - (3)** the phone number for the release of vehicles if they are subject to being towed;
  - (4)** a warning that the facility may be monitored; and
  - (5)** that vehicles parked without valid proof of payment or permit are subject to a parking penalty.
- d.** In spaces reserved for parkers with a disabled person parking permit, the operator must attach a sticker or sign to the disabled parking sign at the front of each space that notifies the disabled parking customer that he/she is responsible for payment, regardless of having a disabled person parking permit.

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

- a.** Non-pay facilities must have a sign posted at each entrance stating:
  - (1)** that parking is prohibited, reserved or otherwise restricted;

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- (2) who is authorized to park;
- (3) all limitations on parking;
- (4) the hours during which parking is restricted;
- (5) that the facility may be monitored; and
- (6) that parking in violation of posted restrictions may result in assessment of a penalty or towing and storage of a vehicle at the vehicle owner's expense.

- b. If a private parking facility is shared by more than one business, the parking spaces must be marked (or signs posted) clearly indicating which spaces are reserved for each business.

#### **I. Assessment of Penalties.**

- 1. Pay and park facilities. The operator of a pay and park facility may assess and collect a penalty from any parker found to have either parked without paying the required parking fees upon parking the vehicle, or parked without placing the proof of payment in the vehicle so that it is clearly visible through the windshield.
- 2. Non-pay private parking facilities. The operator of a non-pay private parking facility may assess and collect a penalty from any parker found to have parked without authorization.
- 3. The penalty amount assessed to vehicles described in Subsections 1. and 2. above must not exceed the following amounts:
  - a. Not more than the overtime parking penalty set by Multnomah County Circuit Court if paid within 30 days of the mailing date of the penalty payment letter.
  - b. Not more than double the overtime parking penalty set by Multnomah County Circuit Court if paid after 30 days from the mailing date of the penalty payment letter.

#### **J. Parking Penalty Notice.**

- 1. When a vehicle is parked in violation of a registered facility's requirements, the operator may affix to the vehicle, in a prominent location, a penalty notice.



2. The penalty notice must be processed as follows:
  - a. A copy must be affixed to the vehicle,
  - b. A record of the notice must be retained by the operator for not less than 1 year, and
  - c. All records of penalty notices must be available to the Director upon request.

**K. Penalty payment letters.**

1. If the operator does not receive payment within 10 days from the day the operator affixed the penalty notice to the vehicle, the operator may mail a penalty payment letter to the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle. The letter must be mailed no earlier than 10 days nor later than 30 days from the penalty notice issuance date. The letter must include:
  - a. The amount demanded;
  - b. Acceptable method(s) of payment;
  - c. The schedule of increases for continued non-payment as described in Subsection 7.24.020 I. above;
  - d. Space for the recipient to inform the operator that the person to whom the letter was sent is not the current registered owner of the vehicle;
  - e. A statement that the vehicle owner may submit a written complaint to the Bureau if attempts to resolve any disputes with the operator have been unsuccessful;
  - f. The mailing address of the Bureau, and
  - g. A statement to the effect that the Bureau will only investigate complaints by parkers regarding the issuance of a parking penalty notice filed within 90 days of the date of the first penalty payment letter.
2. Administrative Fees.

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- a. If an operator incurs costs from the Department of Motor Vehicles (DMV) in its efforts to obtain the name and address of a vehicle's registered owner, the operator may add a one-time administrative fee in addition to the penalty amount, provided that:
    - (1) 10 days have elapsed since the penalty notice issuance;
    - (2) The operator indicates the amount assessed as a separate itemized amount on the penalty payment letter;
    - (3) The amount assessed is no more than the amount charged to the operator by the DMV.
  - b. Operators may not demand payment for an administrative fee until they have been charged said fee by the DMV.
  - c. Although operators may only charge the administrative fee once, the fee may be a combination of more than one DMV charge if the first attempt to obtain registered owner information resulted in invalid information. In no event may an operator charge for more than two attempts.
- L. Unlawful to tow vehicles. It is unlawful for any person to tow any vehicle parked at any registered facility without the permission of the parker unless:
  - 1. The vehicle has been parked at the registered facility without the payment of the required parking fees or without authorization for a period in excess of 24 hours after the period for which parking fees have been paid or authorization has been given; or
  - 2. The vehicle is parked at the registered facility in such a manner as to clearly impede vehicular ingress or egress to and from designated parking stalls or the facility itself, or is parked in any area that is clearly and conspicuously designated by signs or other traffic control devices as areas in which parking is restricted or forbidden; or
  - 3. The vehicle is parked at any of the operator's registered parking facilities, and;
    - a. Within the previous 2-year period, the vehicle was parked at any of the operator's registered facilities without payment of parking fees or authorization, three times or more; and

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- b.** During that time the operator affixed and mailed the notices and payment letters as provided for in this Section; and
- c.** Three or more penalties remain unpaid; and
- d.** The operator has mailed a notice by certificate of mailing, and a reasonable amount of time has elapsed for service of the notice, advising the registered owner(s) and any other persons who reasonably appear to have any interest in the vehicle stating that the vehicle will be towed if the vehicle is again parked at a registered parking facility. The notice must also state the total amount due for outstanding penalties, the issue date and parking facility location for each outstanding penalty, the method(s) of payment accepted, the name, address and phone number of the operator, and that the vehicle owner may submit a written complaint to the Bureau if attempts to resolve the complaint with the operator are unsuccessful. The operator shall retain a copy of each notice for not less than 1 year and make such copies available upon request of the Director. The notice must be in a form approved by the City Attorney's Office; and,
- e.** Such towing is performed in compliance with Section 7.24.010 Towing of Vehicles from Private Property.

**M. Complaint Handling Procedures.**

- 1.** Operators responding to the complaints of parkers or registered owners of vehicles must follow these guidelines:
  - a.** The operator must be available by telephone, fax and e-mail to the public during normal business hours to accept and respond to public complaints. The operator must have voicemail and must respond to telephone messages by the end of the next business day.
  - b.** The operator must respond in writing to written complaints within 10 days from the date the operator received the complaint.
  - c.** The operator's written response must include the mailing address of the Revenue Bureau and a statement that the parker or registered owner of the vehicle may submit a written complaint to the Bureau if attempts to resolve the complaint with the operator are unsuccessful.

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- d. All efforts to collect the penalty and related amounts must be suspended upon the filing of a complaint with the operator or the Director, pending final resolution.
  - e. Penalties must not increase from the time a complaint is received by the operator or the Director, pending final resolution.
  - f. The operator must void the penalty if the parker or registered owner provides evidence within 30 days of issuance of the penalty notice that the parking fee payment was made at the time the vehicle was parked at the facility or that the parker was authorized to park.
  - g. The operator must notify appropriate credit agencies immediately upon voiding any penalty.
2. Upon receipt of a complaint the Director shall conduct an investigation.
  - a. Upon a finding by the Director or Bureau staff that a penalty is invalid, the operator must immediately cancel the penalty, cease all efforts to collect the penalty, and refund any payments that have been made.
  - b. If the investigation determines that a violation of this Section has occurred, the Director will 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 penalties filed any time after 90 days from the date of the first mailed penalty payment letter.
- N. Maintenance of records. The operator shall keep and maintain records of all penalties, any transactions relating to collection of past due accounts, written warnings, requests for vehicle towing, and any other transactions or written complaints relating to penalties or the impoundment of vehicles for a period of at least 1 year from the date the penalty notice was issued.
- O. Insurance required. Operators must provide and maintain commercial general liability insurance covering any and all claims for damage to property or personal injury, including death and automobile damage that may arise from operations under the registration.

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1. Such insurance must provide coverage of not less than \$1 million combined single limit per occurrence, with aggregate of \$1 million for bodily injury or property damage.
2. The limits of the insurance are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the registration.
3. The insurance must be without prejudice to coverage otherwise existing.
4. The insurance must name as additional insured the City and its officers, agents and employees. Notwithstanding the naming of additional insureds, the insurance must protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein will operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts which the insurer would have been liable if only one person or interest had been named as insured.
5. The coverage must apply as to claims between insureds on the policy.
6. The insurance policy must provide that it will not terminate or be canceled without 30 days written notice first being given to the Director.
7. The adequacy of the insurance is subject to the approval of the City Attorney.
8. Failure to maintain liability insurance is cause for immediate revocation of the registration of the operator by the City.

**P. Prohibitions. No operator shall:**

1. Require any person to make any statement or sign any document promising not to dispute the validity of a penalty or relieving the operator from responsibility for the condition of the vehicle.
2. Solicit business by means of payment of a gratuity, commission or other consideration to the property owner, manager or employee of a facility.
3. 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.

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- Q.** Remedies. Upon a violation by the operator of any 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 facility if investigation reveals that the violation has an impact on the public that informal compliance methods have failed to resolve. Suspension of registration may be for a period of up to 14 calendar days. The suspension will be effective from the operator's receipt of written notice of suspension. If the violation is not corrected within the 14 calendar day period, then the Director may revoke the registration. The revocation will be effective upon the mailing of written notice by the Director.
  - 2.** Civil Penalty. The Director may impose a civil penalty of up to \$500 for each violation.
- R.** Appeals. Any operator aggrieved by a determination of the Director may appeal such determination to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10.

#### **7.24.030 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.

## **TITLE 7**

### **BUSINESS LICENSES**

- 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.



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**Chapter 17.28**

**SIDEWALKS, CURBS AND DRIVEWAYS**

(New Chapter substituted by Ordinance  
No. 167684, effective May 18, 1994.)

**Sections:**

- 17.28.010 Sidewalk Defined.
- 17.28.015 Owner Defined.
- 17.28.020 Responsibility for Sidewalks and Curbs.
- 17.28.025 Property Owner Responsible for Snow and Ice on Sidewalks.
- 17.28.030 Notice for Construction of Sidewalks and Curbs.
- 17.28.035 Curb and Intersection Corner Ramps.
- 17.28.040 Construction Alternatives.
- 17.28.050 City Construction if Owner Fails to Construct.
- 17.28.060 Location, Size and Materials of Sidewalks and Curbs.
- 17.28.065 Bicycle Parking.
- 17.28.070 Owners to Repair Sidewalks and Curbs-Notice to Repair.
- 17.28.080 Permit for Sidewalk and Curb Repairs.
- 17.28.090 Repair by City of Portland.
- 17.28.100 Driveways Defined.
- 17.28.110 Driveways - Permits and Conditions.
- 17.28.120 After Construction Driveways Deemed Part of Sidewalk.
- 17.28.130 Reconstruction of Existing Driveways.
- 17.28.140 City Charges for Construction or Repair of Sidewalks, Curbs and Driveways.
- 17.28.150 Billing for Charges.
- 17.28.160 Assessment of Charges.

**17.28.010 Sidewalk Defined.**

(Amended by Ordinance No. 177028, effective December 14, 2002.) A “sidewalk” means the portion of the street intended for the use of pedestrians. Unless the street area has been designated as a pedestrian mall, or unless the entire street has been designated primarily for pedestrian use, for the purpose of this Chapter, “sidewalk” is that part of a street on the side there of intended for the use of pedestrians, improved by surfacing.

**17.28.015 Owner Defined.**

“Owner” means the owner of the real property or the contract purchaser of real property of record as shown on the last available assessment roll in the office of the county assessor.

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**17.28.020 Responsibility for Sidewalks and Curbs.**

(Amended by Ordinance No. 182760, effective June 5, 2009.)

- A.** The owner(s) of land abutting any street in the City shall be responsible for constructing, reconstructing, maintaining and repairing the sidewalks, curbs, driveways and parking strips abutting or immediately adjacent to said land, except as provided in Subsection B. Said property owner(s) shall be liable for any and all damages to any person who is injured or otherwise suffers damage resulting from the defective condition of any sidewalk, curb, driveway or parking strip adjacent to said land, or by reason of the property owner's failure to keep such sidewalk, curb, driveway or parking strip in safe condition and good repair. Said property owner(s) shall be liable to the City of Portland for any amounts which may be paid or incurred by the City by reason of all claims, judgment or settlement, and for all reasonable costs of defense, including investigation costs and Attorney fees, by reason of said property owners' failure to satisfy the obligations imposed by the Charter and Code of the City of Portland to maintain, construct, and repair such sidewalks, curbs, driveways and/or parking strips.
- B.** Curbs shall be maintained by the City, except when in combination with the sidewalk and when they have been willfully damaged or damaged by tree roots. Intersection corners and curbs adjacent thereto may be installed by the City when sidewalks and curbs are constructed up to the intersection on the same side of the street.
- C.** The City Engineer shall maintain general construction and maintenance specifications for sidewalks, curbs, driveways and/or parking strips. The City Engineer shall use the specifications to determine compliance with this Chapter of Code. The City Engineer shall provide copies of the specification to any person upon request, and make the specifications available for public inspection during normal office hours.

**17.28.025 Property Owner Responsible for Snow and Ice on Sidewalks.**

(Added by Ordinance No. 176585, effective July 5, 2002.)

- A.** The owner(s) and/or occupant(s) of land adjacent to any street in the City shall be responsible for snow and ice removal from sidewalks abutting or immediately adjacent to such land, notwithstanding any time limitations.
- B.** Property owner(s) and/or occupant(s) shall be liable for any and all damages to any person who is injured or otherwise suffers damage resulting from failure to remove snow and/or ice accumulations.

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- C. Property owner(s) and/or occupant(s) shall be liable to the City of Portland for any amounts paid or incurred consequent from claims, judgment or settlement, and for all reasonable investigation costs and attorney fees, resulting from the responsible property owner's or occupant's failure to remove snow and ice accumulations from such sidewalks as imposed by this Code.

**17.28.030 Notice for Construction of Sidewalks and Curbs.**

(Amended by Ordinance No. 182760, effective June 5, 2009.) Where the sidewalk or curb in front of any lot, part thereof, or parcel of land is or becomes so worn or deteriorated as, in the opinion of the City Engineer, to require a new sidewalk or curb to be constructed, or where no sidewalk or curb exists and, in the opinion of the City Engineer, a sidewalk or curb or both are needed, it shall be the duty of the City Engineer to post a notice on the adjacent property headed "Notice to Construct Sidewalk" (or curb, or both). The notice shall in legible characters direct the owner, agent, or occupant of the property immediately to construct a sidewalk or curb or both in a good and substantial manner and in accordance with the City ordinances, regulations and plans therefore which will be furnished by the City Engineer upon application. The City Engineer shall file with the Auditor an affidavit of the posting of the notice, stating when and where the same was posted, and shall furnish upon request proper specifications, standards and information for the construction thereof. The City Engineer shall send by mail a notice to construct the sidewalk or curb, or both, to the owner of the property, if known, or to the agent of the owner, if known, directed to the post office address of the owner or agent, when the post office address is known to the City Engineer. If the post office address is unknown to the City Engineer, the notice shall be directed to the owner or agent at Portland, Oregon. A mistake in the name of the owner or agent, or a name other than that of the owner or agent of such property, or any mistake in the address, shall not render void the notice, but in such case the posted notice shall be sufficient.

**17.28.035 Curb and Intersection Corner Ramps.**

- A. All newly constructed or reconstructed sidewalk intersection corners where determined feasible by the City Engineer shall have included, either within the corner or within the curb area immediately adjacent thereto, ramps allowing access to the sidewalk and street by elderly and physically disabled persons.
- B. The ramps referred to in Subsection (a) shall be constructed in a good and substantial manner and in accordance with the plans and specifications established by the City Engineer. The particular plan to be used at a given intersection corner shall be appropriate to the location as determined by the City Engineer.

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#### **17.28.040 Construction Alternatives.**

(Amended by Ordinance No. 182760, effective June 5, 2009.) In case three or more adjacent properties are posted with notice to construct sidewalk or curb, or both, as set forth in Section 17.28.030, they may petition for such construction as a local improvement. Otherwise it shall be the duty of the owners of properties posted with such notice to construct the same. Before constructing the sidewalk or curb, or both, the owner, designated agent or the occupant of the property intending to construct the same, shall obtain from the City Engineer a permit therefore, which permit shall prescribe the kind of sidewalk or curb, or both, to be constructed, the material to be used and the width thereof. After notice to construct sidewalk or curb, or both, has been posted, the owner, agent or occupant shall construct the same within 30 days from the date of posting, or within said time shall show cause, if any there be, by a written remonstrance addressed to the City Council stating why the same should not be constructed. The Council will grant a hearing to the remonstrator at a regular meeting as soon thereafter as the same can be filed on regular Council Calendar. The Council will thereupon determine whether or not such sidewalk or curb, or both, shall be constructed. If the remonstrator is not present at the time of such determination by the Council, the City Auditor shall forthwith notify such person of such determination of the Council by mail sent to the address given upon the written remonstrance. Failure of the City Auditor to send the notice, or failure of the remonstrator to receive the same, or any other mistake therein, shall not render void or ineffective the lien to be imposed upon the property in the event of City construction. In the event that the Council determines that the sidewalk or curb, or both, shall be constructed, the owner or designated agent or the occupant shall within 10 days thereafter begin the construction thereof and diligently prosecute the same to final completion.

#### **17.28.050 City Construction if Owner Fails to Construct.**

(Amended by Ordinance No. 182760, effective June 5, 2009.) If no petition for local improvement is filed, and if the owner, agent or occupant of property posted with notice construct sidewalk or curb, or both, shall fail, neglect or refuse to begin the construction of the sidewalk or curb within 30 days after posting of notice, or within 10 days after order by the Council in the event of a remonstrance, the City shall construct the same as soon thereafter as such work can be conveniently scheduled. The cost for the City to have the repairs made shall be assessed upon the property.

#### **17.28.060 Location, Size and Materials of Sidewalks and Curbs.**

(Amended by Ordinance No. 182760, effective June 5, 2009.) The City Engineer shall determine the distance between the improved sidewalk and the property line, which, in residential areas shall generally be 2 feet unless a different distance is specified. The width of the improved sidewalks, the grade thereof, materials for construction or reconstruction, and the location and size of curbs, shall be designated by the City Engineer. The class and kind of any fill materials and requirement thereof shall be designated by the City Engineer. Based on a finding of necessity, the City Engineer may permit installation of a temporary sidewalk for a specified period, and designate specifications for the temporary improvement.



**17.28.065     Bicycle Parking.**

(Added by Ordinance No. 177028; amended by Ordinance Nos. 178173, 182389 and 182760, effective June 5, 2009.) Bicycle parking in the right-of-way adjacent to multifamily, commercial, institutional, employment, or industrial land uses helps to achieve the City's goal of making the bicycle an integral part of daily life in Portland. Bicycle parking in the right-of-way provides convenient, accessible, and clearly visible parking in areas where buildings are generally built to the sidewalk.

- A.**     As a part of street improvements adjacent to developing or redeveloping property, the City Engineer may, where determined appropriate and practicable, require one or more bicycle racks.
- B.**     The location and type of rack shall be determined by the City Engineer based on sidewalk width, location of other elements in the right-of-way, and adjacent land uses.
- C.     Bicycle Parking Fund.** An owner of a building without surface parking, or without parking or open areas within 50 feet of the main entrance may choose to pay a fee to the Bureau of Transportation Bicycle Parking Fund in lieu of short-term bicycle parking required by Table 266-6 in Title 33, Planning and Zoning. The Bureau of Transportation will use the collected fees to install bicycle parking and associated improvements in the right-of-way.

  - 1.**     Authority. The City Council delegates authority to the Director of the Bureau of Transportation to adopt administrative rules and procedures necessary to implement provisions of this section. All rules pursuant to this authority shall be filed with the Office of City Auditor and be available for public inspection.
  - 2.**     Calculation of required fund contributions. Applicants must contribute the cost to purchase, install and maintain bicycle parking and associated improvements. The cost to purchase, install, and maintain bicycle parking will be adjusted annually as determined by the City Engineer.
  - 3.**     Payment. The Bicycle Parking Fund fee is due to be paid upon issuance of a building permit. The Director of the Bureau of Transportation is authorized to refund the Bicycle Parking Fund fee where the development approved by building permit is not constructed and the building permit is cancelled.
  - 4.**     Width of Sidewalk Corridor. The sidewalk corridor where bicycle parking is to be installed must meet or exceed the width recommended in the Pedestrian Design Guide for installation of bicycle parking. In no case

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may bicycle parking, installed through the Bicycle Parking Fund be placed in a sidewalk corridor of less than 10 feet in width.

#### **17.28.070 Owners to Repair Sidewalks and Curbs - Notice to Repair.**

(Amended by Ordinance No. 183348, effective December 18, 2009.) After a sidewalk has been improved or constructed, either alone or in combination with a curb, the owner of land abutting the street area in which the sidewalk has been constructed shall be responsible for maintaining such sidewalk and curb in good repair. If the City Engineer finds that any such sidewalk or curb needs repair, he shall post a notice on the adjacent property headed "Notice to Repair Sidewalk" (or curb) which shall in legible characters direct the owner, agent, or occupant of the property immediately to repair the sidewalk or curb, or both in a good and substantial manner in accordance with the plans, specification and regulations of the City. The City Engineer shall send by mail a notice to repair the sidewalk or curb, or both, to the owner, if known, of such property, or to the agent (if known) of the owner, directed to the post office address of the owner or agent when known, or if the post office address is unknown, the notice shall be directed to the owner or agent at Portland, Oregon. A mistake in the name of the owner or agent, or a name other than that of the true owner or agent of the property, or mistake in address shall not invalidate said notice, but in such case the posted notice shall be sufficient.

#### **17.28.080 Permit for Sidewalk and Curb Repairs.**

(Amended by Ordinance No. 183348, effective December 18, 2009.) After notice to repair defective sidewalk or curb, or both, has been posted, the owner, agent or occupant shall make the repairs within 20 days from the date of posting. Any person desiring to repair a defective sidewalk, curb or both, either before or after notice to repair has been posted, shall first obtain a permit.

The permit shall prescribe the kind of repair to be made, the material to be used, and specifications therefore, including the location and size. Any person desiring to construct or reconstruct sidewalk or curb, or both, shall first obtain a permit therefore and pay the fees elsewhere prescribed in Chapter 17.24.

#### **17.28.090 Repair by City of Portland.**

(Amended by Ordinance No. 183348, effective December 18, 2009.) If the owner, agent or occupant of any lot, part thereof or parcel of land which has been posted with notice to repair a sidewalk or curb, or both, shall fail, neglect or refuse to make repairs within the period of 20 days after posting, the City Engineer may as soon as the work can be conveniently scheduled, make the repairs, and the cost shall be determined and assessment made as provided in this Chapter.

#### **17.28.100 Driveways Defined.**

As used in this Chapter, the following terms shall have the meaning as set forth below.

- A. "Driveway" means a concrete way for vehicular traffic extending from the roadway to the property line across a sidewalk, whether or not such sidewalk is

improved, for the purpose of providing access to parking or maneuvering space on abutting property.

- B. “Residential driveway”** means a driveway serving a one or two family residence.
- C. “Commercial driveway”** means a driveway serving any property except a one or two family residence.

**17.28.110 Driveways - Permits and Conditions.**

(Amended by Ordinance Nos. 177028, 179845 and 182760, effective June 5, 2009.)  
Upon appropriate application and payment of fees, as provided in Chapter 17.24, the City Engineer may issue a permit to construct a driveway in the street area subject to the following conditions:

- A.** All driveways shall be constructed according to plans, specifications, and any special conditions fixed by the City Engineer.
- B.** Location. No portion of a driveway, excluding ramps if required, shall be located closer than 25 feet from the corner of a lot where two streets intersect.
- C.** Width of driveways. A permit to construct a driveway in the street area is subject to the following width provisions:

**1. Residential driveway:**

Private Property Frontage	Minimum Width	Maximum Width
25 ft. or less	9 ft	12 ft.
26 ft. to 50 ft.	9 ft.	20 ft.
51 ft. to 75 ft.	9 ft.	25 ft.
76 ft. to 100 ft.	9 ft.	30 ft.

More than one driveway may be allowed for frontage up to 100 feet with the approval from the City Engineer or City Traffic Engineer. No less than 5 feet of straight curb must separate service driveways regardless of ownership. Each 100 feet of frontage, or fraction thereof, under single ownership shall, for purposes of this Chapter, be considered a separate frontage.

**2. Commercial driveway:**

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Private Property Frontage	Minimum Width	Maximum Width
50 ft. or less	10 ft.	20 ft.
51 ft. to 100 ft.	20 ft.*	30 ft.

\*A commercial driveway for a residential use that provides access for 10 parking spaces or less can be a minimum width of 10 feet, provided the access is on a local service street and will be designed to allow forward motion of all vehicles. However, the City Engineer or City Traffic Engineer may establish conditions regarding width that are deemed necessary to ensure the safe and orderly flow of pedestrians, bicycles and vehicular traffic. These conditions are based on evaluation of speeds, volumes, sight distance, and any other transportation factors that are relevant.

More than one driveway may be allowed for frontage up to 100 feet with the approval from the City Engineer or City Traffic Engineer. No less than 5 feet of straight curb must separate service driveways regardless of ownership. Each 100 feet of frontage or fraction thereof under single ownership shall for purposes of this Chapter be considered a separate frontage.

3. Driveways shall be measured lengthwise with the sidewalk on the property line side, and such measurement shall not include the width of ramps extending to the regular sidewalk grade. Ramps, if required, do not constitute part of required minimum or allowed maximum width. Determination of the need or appropriateness of ramps shall be within the sole discretion of the City Engineer.
4. Any driveway at variance with these width limitations shall not be permitted unless the City Engineer specifically approves or requires the same. Any applicant requesting a driveway at variance with these standards shall provide such information as the City Engineer may require in support of the application. The City Engineer may establish conditions deemed necessary to insure the safe and orderly flow of pedestrian and vehicular traffic and the decision of the City Engineer as to the widths and location of driveways shall be final and conclusive.
5. The City Engineer may require joint or shared use of a driveway by two properties in separate ownership. The City Engineer may recommend such conditions regarding the number, configuration, and use of driveways necessary to ensure the safe and orderly flow of pedestrians, bicycles, and vehicular traffic, preserve on-street parking, preserve or establish street

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trees, maximize opportunities for vegetated stormwater management, reduce conflicts with pedestrians and bicycles and enhance the pedestrian environment.

- D.** The City Engineer may refer any driveway permit application to the City Traffic Engineer and/or the Oregon Department of Transportation as appropriate, for a review of the location and width. The City Traffic Engineer shall recommend such conditions and limitations regarding the location and operation of driveways as are found necessary to insure the safe and orderly flow of pedestrian, bicycles and vehicular traffic and preserve on-street parking.
- E.** The City Engineer may require any applicant for a driveway permit to provide evidence that the proposed driveway will access legal parking and maneuvering space on property as set forth in Title 33, Planning and Zoning regulations. The City Engineer may refuse to issue a permit if the applicant cannot show evidence that on-property parking and maneuvering space is in compliance with Title 33, Planning and Zoning regulations.

  - 1.** If the City Engineer finds that a property owner is permitting access where a properly constructed driveway does not exist, the City Engineer may post notice and require termination of access or construction of a driveway in accordance with the requirements of this Chapter.
- F.** Revocability of driveway permits.

  - 1.** The City Engineer may revoke any driveway permit or require the modification of any driveway if:

    - a.** The area occupied by the driveway is needed for the public convenience;
    - b.** Continued operation of the driveway interferes with the safe and orderly flow of pedestrians, bicycles or vehicular traffic; or
    - c.** The abutting owner has failed to comply with all specifications and conditions of the permit; or
    - d.** The driveway does not access legal parking and maneuvering space on abutting property.
  - 2.** The Council may revoke any driveway permit if they deem such action will be in the public interest.

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- G.** Enforcement powers. Within 20 days of written notice from the City Engineer to close or modify a driveway, the abutting property owner shall obtain any required permits and make the required corrections. If the abutting owner fails to make the required corrections within 20 days, the City may perform the required work at the expense of the abutting property owner and the cost shall be determined and assessment made as provided in this Chapter.

#### **17.28.120 After Construction Driveways Deemed Part of Sidewalk.**

After a driveway has been constructed, it shall be deemed a part of the sidewalk whether or not there is a sidewalk improvement extending along the balance of the frontage property, for all purposes of repair or reconstruction. Requirements relating to construction or reconstruction of a sidewalk as provided in this Chapter, shall be applicable to reconstruction of a driveway, except that the property owner shall have no option to petition for a local improvement solely for such purpose.

#### **17.28.130 Reconstruction of Existing Driveways.**

If the City Engineer finds that any driveway does not conform to the requirements of this Chapter and should be reconstructed for the protection or convenience of pedestrians or vehicles using the street area, the City Engineer may post notice and require the reconstruction or removal of the driveway. If the abutting property owner fails to make the required corrections within 20 days the City may perform the required work at the expense of the abutting property owner, and the cost shall be determined and assessment made as provided in this Chapter.

#### **17.28.140 City Charges for Construction or Repair of Sidewalks, Curbs and Driveways.**

(Amended by Ordinance No. 182760, effective June 5, 2009.) The property owner shall be charged for the construction, reconstruction or repair of sidewalks, curbs and driveways. The cost for the City to have repairs made will be assessed upon the property.

- A.** Special structural, excavation and fill jobs and jobs in areas of traffic and pedestrian congestion shall be charged at the discretion of the City Engineer. Determination of whether a job is of special type shall be made by the City Engineer.
- B.** Cost basis charges for work may be made at the discretion of the City Engineer if the actual cost can be conveniently and accurately determined.

#### **17.28.150 Billing for Charges.**

(Amended by Ordinance No. 183348, effective December 18, 2009.)

- A.** When work is completed by the City on any construction, reconstruction or repair of a sidewalk, curb or driveway, the amount of the charge shall be determined by the City Engineer or responsible bureau and reported to the City Auditor. The

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City Auditor shall calculate a proposed assessment that includes the amount of the improvement charge plus 10% of the charge to defray the administrative costs of notice, assessment and recording.

**B.** The City Auditor shall prepare a proposed assessment notice for the owner of each property or the owner's agent as shown in the County tax records. The notice shall be mailed at least 21 calendar days before the public hearing on the proposed assessment, and the notice shall consist of the following information:

1. The legal description and site address of the property;
2. The amount of the proposed assessment against the property;
3. The manner and deadline for filing a written remonstrance to the proposed assessment amount;
4. The date, time and location of the public hearing for Council consideration of the proposed assessment; and
5. Contact information for sidewalk repair.

**C.** Any owner of property proposed to be assessed for sidewalk repair may file a remonstrance to the proposed assessment with the City Auditor. The remonstrance must be in writing and received by the City Auditor via US mail or hand delivered no later than 5:00 PM eight (8) calendar days prior to the hearing by the City Council on the proposed final assessment. Upon receipt of a timely filed remonstrance the City Auditor shall remove the property from the filing of the proposed assessment before the council hearing date, and shall refer the remonstrance to the responsible bureau for follow-up and response.

**D.** The City Auditor shall mail the proposed assessment notice by first class mail to the owners of the affected property. The notice shall be deemed given upon deposit in the U.S. mail.

**17.28.160 Assessment of Charges.**

(Amended by Ordinance Nos. 182760 and 183348, effective December 18, 2009.)

**A.** The City Auditor shall refer to the City Engineer or responsible bureau all remonstrances and remove from further assessment action the proposed assessments which are associated with the remonstrances. The City Engineer or responsible bureau shall review each remonstrance by taking the following actions:



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1. Determine whether the improvement work was required by Code and whether the conditions required the improvements, whether the required improvements are consistent with Code and City specifications, and whether the improvement charges are calculated as provided by Code; and
  2. Determine the extent of actions or adjustments which are necessary to bring the proposed assessment into compliance with Code and program standards; and
  3. Mail a statement of findings to the remonstrating property owner, and file a copy with the City Auditor. The findings shall include a statement that the property owner may appeal the determination to the Council.
- B.** The Council shall conduct a public hearing on the proposed assessments, however is should be held no sooner than 20 days following the date of the proposed assessment notice as provided in this Chapter. The Council shall consider and make its determinations based on the requirements of this Code and the City specifications maintained by the City Engineer. The Council shall affirm or modify the proposed assessments based on its findings. The Council's decisions shall be implemented by ordinance which sets forth its findings and decision. The decision of the Council may be appealed to the court by writ of review.
- C.** Following adoption of the assessing ordinance, the City Auditor shall mail a final assessment notice to the owners of the affected property as shown on the last available assessment roll in the office of the county assessor. The notice shall be deemed given upon deposit in the U.S. mail. The notice shall contain the following information:
1. The legal description and site address of the property;
  2. The final assessment amount;
  3. A statement that the final assessment is recorded in the Docket of City Liens, and is a lien which has first priority against the property as provided by state statute;
  4. The manner and deadline for paying the final assessment in full or requesting to pay the final assessment in installments if authorized by Code;
  5. The interest, penalties and collections costs which shall be charged if the final assessment is not paid or an installment payment contract is not filed before the deadline contained in the notice; and



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- 6.** A statement that delinquent final assessments may be collected by foreclosure and property sale.
- D.** The City Auditor shall maintain a Docket of City Liens containing final assessments on property. Any unpaid final assessment shall be recorded in the City lien docket, and it shall be binding upon the property owner and all subsequent property owners of the property or any segregated part of it. The docket shall stand thereafter as a lien docket the same as ad valorem property taxes assessed in favor of the City against each lot or parcel of land until paid, for the following:

  - 1.** The amount of the unpaid final assessments docketed, with accrued interest at the rate determined by the City Council, or in the case of an installment contract, at the rate set forth in the contract; and
  - 2.** Any additional interest, penalties, or billing charges imposed by the City with respect to any installments of final assessments which are not paid when due.
- E.** All unpaid final assessments together with accrued and unpaid interest and penalties and billing charges are a lien on each lot or parcel of land respectively, in favor of the City and the lien shall have first priority over all other liens and encumbrances whatsoever.
- F.** The City shall enforce assessment liens and installment payment contracts under this Chapter in the same manner as other City assessments as set forth in Title 5.



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FIGURE 2 - (Section 17.24.020)

(Amended by Ordinance Nos. 160042, 166696, 167861, 168944, 170200, 171243, 172288, 175205, 180189, 181006, 181846, 182870, 182760 and 183348, effective December 18, 2009.)

Permit For	Unit Fee	Minimum Each Permit
(1) Placement of bus shelter or rest station with no advertising use		No charge
(2) Community, parade or block party street closures		No charge
(3) Seasonal or parade decorations		No charge
(4) Placement of public litter receptacle		No charge
(5) Street uses established by the City Engineer and City Council to be of civic benefit and non-commercial in nature		No charge
(6) Construction or reconstruction of sidewalks and driveways	\$.82/sq. ft.	\$60.00
(7) Construction or reconstruction of curb	\$1.04/lin. ft.	\$60.00
(8) Excavation for the construction, reconstruction, repair or abandonment of:		
(a) a main line, duct, conduit, subway, property service, lateral, etc. (Sewer connection more than 100 feet in length shall be deemed a public improvement under permit.)	\$2.93/lin. ft.	\$293.00
(b) property service or lateral if not constructed in conjunction with (a) above and plan review not required.	\$201.00	\$201.00

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FIGURE 2 CONTINUED - (Section 17.24.020)

Permit For	Unit Fee	Minimum Each Permit
(9) Excavation for construction, reconstruction, repair or abandonment of:		
(a) utility vault or manhole chamber,		\$919.00
(b) underground storage tank		\$1,105.00/tank
(c) miscellaneous utility excavations	\$2.93/sq. ft.	\$ 293.00
(10) Placement, replacement, relocation or removal of a pole	\$154.00	\$ 154.00
(11) Drilling a test hole	\$293.00	\$ 293.00
(12) Temporary closure of any street or portion of a street	\$198.00	\$198.00
(13) Material blasting		\$375.00
(14) House and building moving:		
(a) Non-refundable permit application, investigation fee and issuance fee		\$469.00
(b) Inspection fee Full Cost incurred by the City for inspection and oversight of moving operations.		
(15) Advertising benches:		
(a) Permit		\$ 20.00
(b) Annual Permit Renewal Fee		\$ 20.00
(c) Fee for bench removed by City for non-compliance with City Code -- Full cost incurred by the City for removal and storage of Bench.		

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FIGURE 2 CONTINUED - (Section 17.24.020)

Permit For	Unit Fee	Minimum Each Permit
(16) Bike Racks		
(a) Permit	\$60.00	\$ 60.00
(b) Fee for bike rack removed by City for non-compliance with City Code -- Full cost incurred by the city for removal and storage of the rack.		
(17) Mail Boxes (private, fore 1 and 2 family residence)	\$60.00	\$ 60.00
(18) Sewer connection fee (effective 7-1-06) connection to an existing lateral, or extension of lateral from sewer main to property line; sewer or lateral extension more than 100 feet in length shall be deemed a public improvement under permit	\$150.00	\$ 150.00
(19) Building Plan Review		
(a) One or two family residential structure.	\$193.00	\$193.00
(b) Structures auxiliary to a one or two family residential dwelling unit submitted on a separate application.	\$193.00	\$193.00
(c) Commercial buildings (any structure other than those listed in a and b above).	\$309.00	\$309.00
(20) Any other excavation, construction, reconstruction, repair, removal, abandon-ment, placement or use of the street area (For portable signs, see Title 32 Signs and Related Regulations.)	\$375.00	\$375.00

**TITLE 17**  
**PUBLIC IMPROVEMENTS**

FIGURE 2 CONTINUED (Section 17.24.020)

Permit For	Unit Fee	Minimum Each Permit
(21) Penalty fee. If work in the street area is commenced without first securing the proper permit, the fee shall be double that prescribed above, unless the City Engineer determines that it is not reasonably possible to obtain the permit before commencing such work. Payment of the permit fee, however, shall in no way relieve or excuse any permittee from any other penalties imposed on such violations.		
(22) Sewer tap fees.		
Sewer tap fees are adopted, annually, by general ordinance to establish sewer and drainage rates and charges.		
		<u>Deposit*</u>
(23) Application fee deposit for streets proposed for rename 10 and under City blocks:		\$ 500.00
Application fee deposit for streets proposed for rename over 10 City blocks:		\$1,000.00
*Auditor shall return any unused portion of deposit to applicant.		
(24) Sidewalk Café Permit Fees		
1. Application Fee Base	\$150	per café
2. Application Fee Area Usage	\$4.50	per linear foot
3. Annual Permit Fee Base	\$75	per café
4. Annual Permit Fee Area Usage	\$1.50	per linear foot
5. Permit Reinstatement	\$350	per incident