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Chapter 17.04, DEFINITIONS, is amended as follows:**17.04.010 Person.**

As used in this Title "Person" as used in this Title means any individual, individuals, copartnership, firm, association, or corporation of any kind or nature, whether of foreign or domestic origin. natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, and/or the manager, lessee, agent, servant, officer, or employee of any of them.

Section 17.04.020 Pronoun is repealed.

17.04.025 Responsible Official.

As used in this Title "Responsible Official" as used in this title means the Official with the authority to act as the official agent of the bureau or department or the lawfully appointed subordinate of the Responsible Official. For the Bureau of Transportation, this shall be the Director of the Bureau of Transportation as defined in Section 17.04.36. City Engineer as defined in 17.04.030. For the Bureau of Environmental Services, this shall be the Director of the Bureau of Environmental Services as defined in Section 17.04.035.

17.04.035 Director of the Bureau Environmental Services.

As used in this Title Director of the Bureau of Environmental Services (BES) means the duly appointed Director of the Bureau of Environmental Services, or the lawfully designated subordinate of the Director of Environmental Services acting under the orders of the Director of the Bureau of Environmental Services. "Director" as used in this title means the duly appointed Director of the Bureau of Environmental Services (BES), or the lawfully designated subordinate of the Director acting under the Director's orders.

17.04.036 Director of the Bureau of Transportation.

As used in this Title Director of the Bureau of Transportation (PBOT) means the duly appointed Director of the Bureau of Transportation, or the lawfully designated subordinate of the Director of the Bureau of Transportation acting under the orders of the Director of the Bureau of Transportation.

17.04.080 Engineer's Estimate.

As used in this Title the The term "engineer's estimate" as used in this Title refers to the calculation of anticipated total dollar cost of the construction of a public or local improvement project as determined by the Responsible Engineer. The estimate is used in determining the face value of performance bonds where applicable.

17.04.085 Public Utility.

As used in this Title a "Public Utility" means a person currently possessing a franchise or privilege granted by the City of Portland to provide utility service, or is a City bureau charged with providing utility service, to the public to generate, transmit or provide any

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such service within the City, including but not limited to electricity, telecommunications, natural gas, sewer, water, stormwater, cable or pipeline services.

Chapter 17.08, LOCAL IMPROVEMENT PROCEDURE, is amended as follows:

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

17.08.030 Charter Provisions Applicable.

Charter provisions applicable to local improvements shall be followed by the City except where Charter provisions are ~~not consistent with state statute or the Oregon Constitution. In case of such inconsistency, City Code shall apply.~~ contrary to state statute or the Oregon Constitution. In case of such conflict, legally applicable City Code shall apply.

17.08.130 D. 2. d. Include a statement that the project has been constructed as provided in the adopted plans and specifications, and, if the provisions set forth in Section 17.08.100 E. have been invoked, a copy of the written report from the Responsible Engineer ~~City Engineer~~ attesting that the local improvements are complete in-lieu of a certificate of completion; and

Chapter 17.16, GENERAL PROVISIONS, is amended as follows:

17.16.010 Specifications and Authority to Revise.

A. All work done and materials used for either a local or public improvement whether it be as a district or by permit shall conform to the provisions of this Title and to the current version of the standard construction specifications. ~~as adopted by Ordinance No. 145047 passed by the Council January 18, 1978 and made effective March 1, 1978.~~

B. Revisions. The City Engineer, in consultation with the Chief Engineers of the Bureau of Environmental Services and the Bureau of Water Works, is authorized to revise the standard construction specifications of the City of Portland as needed, excluding ~~Division 5 Part 01100 Water Supply Systems~~ contained therein, which shall be revised by the Chief Engineer of the Bureau of Water Works.

17.16.020 Interpretation of Specifications.

The decision of the City Engineer as to all performances, materials and technical requirements of standard specifications and plans for a local improvement or public improvement shall be final and conclusive excepting work performed in accordance with ~~Division 5 water~~ with Part 01100 of the standard construction specifications for which the Chief Engineer, Bureau of Water Works shall have final and conclusive decision.

The interpretation of all other provisions of standard construction specifications shall be determined by the City Attorney.

Chapter 17.23, SPECIAL TRAFFIC CONTROL DISTRICT, is replaced as follows:

17.23.010 Application.

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

17.23.020 Definitions.

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

- A. **“Curb”** shall mean the stone or concrete edging along a street.
- B. **“Maintenance”** shall mean the function of protecting existing facilities within the street area so as to keep those facilities in safe and convenient operating condition. Under this definition, the work would be of a routine nature and would not involve cutting the pavement.
- C. **“Emergency”** shall mean any unscheduled repair of existing facilities within the street area which must be accomplished immediately to protect the life, health, and well being of the public, or to protect public or private property. Under this definition, “emergency” work shall encompass only immediately required repairs and shall not include extensive replacement or upgrading of the facility.

17.23.030 Designated Boundary.

The following described Special Traffic Control District will mean and include the following streets in the City:

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

17.23.040 Special Jurisdiction.

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

17.23.050 Permits Required.

A. Within the Special Traffic Control District, any party desiring to perform work in the street or make use of the street area to perform work on private property shall first obtain a temporary street closure permit as prescribed in Section 17.44.020 of the Code of the City of Portland, Oregon, and pay the permit fees set forth in Section 17.24.020. Any party obtaining a permit to perform public improvements in the street as described in Chapter 17.24 or 17.56 shall be exempt from obtaining an additional temporary street closure permit as described in this Section 17.23.050.

B. Any party desiring to perform maintenance work in the street shall notify the Director of the Bureau of Transportation two days in advance of the planned work and obtain oral approval prior to commencing the work. Maintenance work between the curb lines requiring no more than a single lane closure will be exempt from obtaining a temporary street closure permit. Unless specifically permitted, maintenance work shall be prohibited during peak hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m., Monday through Friday.

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

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

E. The Director of the Bureau of Transportation may waive minimum notification requirements as listed above in subsection D. if work is deemed to have minimal impact to the transportation system.

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

G. Nothing contained herein shall limit the authority of the Director of the Bureau of Transportation in maintaining public peace and safety and upon request from the City Director of the Bureau of Transportation the party performing any work in the street area shall reopen the street area to its normal use within two hours of notification from the Director of the Bureau of Transportation.

17.23.060 Traffic Standards.

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

17.23.070 Revocation.

The Director of the Bureau of Transportation in carrying out the provisions set forth herein may enforce conditions set forth in permits issued under Section 17.23.050. The Director of the Bureau of Transportation may revoke any permit issued under Section 17.23.050 at any time in the event the public's need requires it, the permittee fails to comply with the conditions of the permit, or for any reason which would have been grounds for denial of the initial permit application.

Chapter 17.24, PERMITS, is replaced as follows:

17.24.000 Purpose and Intent.

The purpose and intent of this Chapter is to:

A. Permit and manage reasonable access to the public right-of-way of the City;

- B. Conserve the limited physical capacity of those public right-of-way held in trust by the City;
- C. Assure that all persons owning or operating facilities within the public right-of-way comply with applicable ordinances, rules and regulations of the City;
- D. Assure that the City can continue to fairly and responsibly protect the public health, safety and welfare of its citizens.

17.24.005 Jurisdiction and Management of Public right of way.

- A. The City has jurisdiction and exercises regulatory management over all public right-of-way within the City, as provided under City Charter, ordinances, and Oregon law.
- B. The City has jurisdiction and exercises regulatory management over public right-of-way whether the City has a fee, easement, or other legal interest in the right-of-way, and whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.
- C. No person may occupy or encroach on a public right-of-way without the permission of the City, as provided under Portland City Code.
- D. The exercise of jurisdiction and regulatory management of a public right-of-way by the City is not official acceptance of the right-of-way, and does not obligate the City to maintain or repair any part of the right of way.
- E. The City retains the right and privilege to immediately require any person to remove, move or otherwise adjust its facilities located within the public rights-of-way whenever, in the determination of the Director of the Bureau of Transportation, the public need requires it. If the person ordered to remove, move, or adjust the facility does not do so as directed by the Director of the Bureau of Transportation the City may remove, move or otherwise adjust such facilities with its own forces or contract forces and the full cost of such removal, movement or adjustment shall be the responsibility of the person responsible for the facility.
- F. The Bureau of Transportation shall be the agency responsible for management of the public right-of-way.

17.24.010 Permits Required.

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

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

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

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

E. Licensed plumbing contractors having a valid plumbing permit to install water service lines and a valid authorization from the Bureau of Water Works to connect to a public water meter may obtain permits to install water service lines between the property line and the public water meter.

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

G. The Director of the Bureau of Transportation may issue permits to the Bureau of Water Works for street openings to facilitate connections to the public water system and to install, repair, and replace water mains, laterals, and necessary appurtenances. The Bureau of Water Works shall obtain permits from the Director of the Bureau of Transportation for use of the street area in accordance with the schedule of fees set forth

in Section 17.24.020.

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

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

17.24.012 Financial Guarantee Required.

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

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

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

17.24.013 Insurance and Indemnification.

A. Insurance

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

B. Indemnification

As a condition of a permit issued under this Chapter, the applicant shall hold harmless, indemnify and defend the City, its officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs

incidental to the defense thereof, including attorney fees, resulting from or arising out of the activities of the applicant, its officers, employees, agents and contractors under this permit. In addition, in situations which occur prior to dedication of the right of way, the permittee acknowledges and assumes all risk of loss which may arise in the event the City or any other public agency subsequently requires changes in or additions to plans or refuses to approve all or any part of permittee's improvements.

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

A. Except as otherwise provided in this Code, permits to construct, install and/or maintain privately-owned structures in dedicated street area may be issued by the Director of the Bureau of Transportation only to the owner of the property abutting the half of the street area in which the structure is proposed to be built. Such permits shall be revocable at any time as provided in Section 17.44.017. The burdens and benefits of any such permit shall run with the property abutting the half of the street area in which the structure is proposed to be built and all such permits shall be recorded against the title of the benefitting property except as otherwise specified below. All cost of such recordings shall be borne by the permittee. Upon sale or other disposition of the property, the permit shall automatically transfer to any new property owner, unless the permit specifically states that it is nontransferable.

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

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

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

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

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

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

17.24.016 Permit Revocation.

Permits for structures in City streets may be revoked by the Director of the Bureau of Transportation at any time and for any reason the Director of the Bureau of Transportation deems to be in the interest of the City, and no grant of any permit, expenditure or money in reliance thereon, or lapse of time shall give the permittee any right to the continued existence of a structure or to any damages or claims against the City arising out of revocation.

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

17.24.017 Temporary Street Closure.

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

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

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

17.24.020 Fees and Charges.

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

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

17.24.025 Fees for Public Improvement Permits.

A. Engineering and superintendence services in connection with public improvement projects shall be charged in accordance with the schedule below, when either the City does design and survey or a consultant does design and survey. Direct cost shall be computed in accordance with the provisions of Section 5.48.030. The City Engineer shall review actual costs of engineering and superintendence to insure that only usual and ordinary costs are included.

Final Engineer's Estimate	
Engineering and Superintendence Fee	
Under \$10,000	75% of direct cost
\$10,001 to 25,000	85% of direct cost
Over \$25,000	100% of direct cost

B. For public improvement projects for which the City does design and survey, application for a permit requires a deposit of one-half of the estimated total permit fee; the balance of the fee is due prior to issuance of the permit. For projects for which a consultant does design and survey, application for a permit requires a deposit of 20 percent of the estimated total permit fee; the balance of the fee is due prior to issuance of the permit.

C. Prior to the issuance of the certificate of completion by the City Engineer the fees charged to the permittee will be adjusted to agree with the actual costs of services as recorded by the City Engineer. The remaining balance, if any, after payment of all costs shall be returned to the permittee. If additional funds are required from the permittee, they shall be paid prior to the issuance of the certificate of completion.

17.24.026 Fees for Review of Land Use Applications.

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

A. Policy

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

B. Required Fees

1. Each request for a pre-application conference shall be accompanied by the applicable fee.
2. All land use review applications requested must be accompanied by the applicable fee.

C. Concurrent Applications. When more than one review is requested on the same project, the fee for each review will be charged.**D. Appeal Fees.** The process and charges for appeals shall be as set forth in Subsection 33.750.030 C. Appeal Fees.**E. Fee Waivers.** The Bureau of Transportation will waive its pre-application and review fees in those cases where the Planning Director has granted a fee waiver under the provisions of Section 33.750.050.**F. Refunds.** The Bureau of Transportation will refund fees under the following circumstances:

1. Unnecessary Fee. When a fee is accepted by staff for a land use review that is later found to not be required, a full refund will be made.
2. Errors. When an error is made in calculating the fee, the overpayment will be refunded.

3. Full Refunds.

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

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

4. No Refunds.

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

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

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

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

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

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

1. the improvement plans have been approved by the City Engineer,
2. the final plat, is approvable as determined by the Bureau of Development Services,
3. any necessary site permits have been obtained from the Bureau of Development Services,

4. any necessary easements outside the land division have been obtained,
5. the permittee has provided the following:
 - a. Acknowledgment that the construction is on private property which is to become easement for public improvements or public right of way and to come under public control upon plat and easement recording with the county.
 - b. Authorization for City personnel to enter upon the particular private property for the purpose of testing, inspection and surveying if required, during the course of construction of the public improvements.
 - c. Acknowledgment that City inspection personnel may reject or require correction of work not in accordance with the approved plans and standard specifications, which would prevent future acceptance of the improvements.
 - d. Acknowledgment that all public utilities to be located in public right of way must be installed prior to final acceptance of the public street improvements, or as directed by the Director of the Bureau of Transportation.
 - e. Acknowledgment that the plat and easements must be recorded with the County prior to final acceptance of the public improvements.
 - f. Agreement that the permittee will hold the City of Portland harmless against any liability which may occur during construction prior to dedication of the right of way or recording of the easement, and further agreement that the permittee assumes all risk of loss which may arise in the event the City or any other public agency subsequently requires changes in or additions to plans or refuses to approve all or any part of permittee's improvements.
 - g. Agreement that the permittee shall, at the permittee's own expense, maintain the public improvements for a period of 24 months following issuance of a certificate of completion by the City Engineer, as assurance against defective workmanship or materials employed in such improvement.
 - h. Acknowledgment that the issuance of this permit in no way waives any requirements by the City or any other public agency which may be associated with the development of the land division.
6. Any other conditions established by the Director of the Bureau of Transportation and or the City Engineer have been met.

17.24.035 Deposit Required.

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

17.24.040 Refusal of a Public Improvement Permit.

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

B. The Director of the Bureau of Transportation may refuse a permit if in his/her judgment the proposed use or improvement:

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

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

D. The Director of the Bureau of Transportation may refuse to issue a permit hereunder unless the application is modified as the Director of the Bureau of Transportation may deem necessary. The Director of the Bureau of Transportation may require the addition of curbs if a sidewalk improvement is proposed. The Director of the Bureau of Transportation may require the addition of curbs or sidewalks or both if the proposed improvement is a street improvement. If the Director of the Bureau of

Transportation finds that water main extensions are likely to be needed within 5 ears after the completion of a street improvement, the Director of the Bureau of Transportation shall refuse issuance of a street improvement permit unless the water main extensions are provided before the completion of a proposed street improvement. If an application is made for a street improvement and the Director of the Bureau of Transportation finds that public service installations will be needed below the surface of the street or that sanitary or storm drainage is necessary or that underground facilities are needed for future street light installations, the Director of the Bureau of Transportation may refuse the application unless such installations are included within the proposal or are arranged to be completed prior to the completion of the proposed street improvement.

17.24.050 Contents of Permit.

A. Any permit issued for the construction of a public improvement or use of the street area may contain such conditions as the Director of the Bureau of Transportation finds appropriate in the public interest. The permit shall specify the kind of work and or use allowed by the permit. The date by which the work is to be completed or if the permit is for use of the street area the date the use shall cease if applicable.

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

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

17.24.055 Assurance of Performance.

A. Assurance of Performance shall be for a sum approved by the Director of the Bureau of Transportation as sufficient to cover 100 percent of the cost of design, superintendence, and construction of improvements authorized under permit. Such assurance may, at the discretion of the Director of the Bureau of Transportation, be in the form of separate assurances covering individual stages of a staged development or covering the installation of various individual improvements rather than a single

assurance of performance covering 100 percent of the cost of all improvements to the entire land division. Deposits for engineering and superintendence as required by Title 17 or by Title 5 are in addition to the filing of such assurances of performance.

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

1. Surety bond executed by a company authorized to transact business in the State of Oregon.
2. Irrevocable letter of credit.
3. Set-aside account
4. Cash deposit.
5. City Council passage of a LID Formation Ordinance for a local improvement district.
6. Other forms as approved by the City Attorney.

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

17.24.060 Permit Conditions.

All work done in streets or other public places shall be done in the location approved by the Director of the Bureau of Transportation and in accordance with plans and specifications prepared or approved by the City Engineer. The permit may include conditions, and the conditions shall be binding upon the permittee (see Section 17.24.050). All work done shall be subject to the rejection or correction requirements of the City Engineer and subject to the final approval of the City Engineer. Any person or entity performing work in the street area shall:

A. Begin the work promptly and diligently pursue the work until the work is completed;

B. Upon completion of the work, make a written report to the Director of the Bureau of Transportation detailing the manner in which the work was executed, the location of the work and facilities, and other information regarding the work performed as the Director of the Bureau of Transportation may request. The report shall be certified as accurately depicting the horizontal and vertical location, size and type of material of all facilities constructed. The plans need not include details of the nature of the facilities. These plans shall be submitted to the City within sixty (60) days after completion of construction. The Director of the Bureau of Transportation may establish the format of such reports.

C. Lay all pipes, mains, sewers, conduits, lines, when the same are to run lengthwise in any street, at a distance at least 3-1/2 feet from the curb measuring toward the center of the street and at least 2 feet from the curb measuring to the outer edge of the street. All connections to the pipes, mains, sewers, conduits, and lines laying lengthwise in the street or to any lot shall be installed perpendicular to the curb. In cases where compliance with these regulations would cause unnecessary digging up of pavement, disruption of traffic, place a burden on the street system, or otherwise not be in the best interest of the public, the Director of the Bureau of Transportation may in his or her sole discretion permit and or require the laying of pipes, mains, sewers, conduits, lines, in a different location or manner;

D. Keep all stone, macadam, gravel or other pavement material separate from the excavated earth;

E. Refill any trench or hole that has been dug or opened in any street for the purpose of reaching or laying any sewer, gas, water or other pipe or main within 24 hours after laying or reaching the sewer, gas, water or other pipe or main, or as directed by the Director of the Bureau of Transportation, in the following manner:

1. If the street has not been improved with permanent pavement, the earth excavated from the hole or trench shall be refilled and thoroughly compacted until the grade of the roadway previously existing at such trench or hole is reached.

2. If the street has been improved with permanent pavement, the excavated area shall be refilled and compacted to the elevation of the bottom of the permanent pavement, which shall be re-laid compactly and made to conform to the grade, base and quality of the surrounding street pavement.

F. Erect appropriate traffic control devices and protective measures around the work site, and maintain warning lights or other warning devices as required by the Traffic Engineer at or around the work site during the hours between sunset and sunrise so that pedestrians and operators of vehicles may be duly warned of, and protected from the obstruction;

G. Install and maintain erosion control measures as directed by the Director of the Bureau of Transportation;

H. Comply with any other directions given by the Director of the Bureau of Transportation.

17.24.067 Hazardous Substances

A. "Utility corridor fill" means fill that:

1. Meets the requirements of the City's Standard Construction Specifications;
2. May be handled without the need for monitoring of exposure to contaminants under the Oregon OSHA occupational standards for maintenance workers or the use of personal protection equipment above Level D as described in 29 CFR 1910.120;
3. Meets the Oregon Department of Environmental Quality definition of clean fill in OAR 340-093; and
4. The concentrations of any contaminants of concern in the fill material are below the Oregon Department of Environmental Quality soil and sediment clean fill screening levels for terrestrial and upland use.

B. "Right of way access area" means the public right of way from curb to curb to a minimum depth of five feet below the final street grade and any additional depth or width necessary for maintenance of public facilities such as sewers, hydrants, meters, and pole bases.

C. "Contaminant barrier" means a visual and physical barrier that is of a material, construction and thickness sufficient to minimize transmission of hazardous substances present in the surrounding fill to the utility fill and provide a visual demarcation of the boundary of the utility fill.

D. In addition to the requirements of this Chapter, permittees shall comply with applicable state and federal laws, regulations and orders concerning hazardous substances including but not limited to their use, storage, handling, disposal, remediation, spill reporting and release reporting.

E. All fill placed or present in the right-of-way access area shall be utility corridor fill.

F. Permittees must excavate fill that does not meet the definition of utility corridor fill encountered in the right of way access area during permitted work and replace it with utility corridor fill.

G. If the soil immediately outside of the right of way access area does not meet the definition of utility corridor fill, a contaminant barrier shall be placed between the utility corridor fill and surrounding fill.

H. On a site specific basis, the Director of the Bureau of Transportation with the concurrence of the Director of the Bureau of Environmental Services may allow the placement of fill that does not meet the definition of utility corridor fill in the right-of-way access area.

I. If a permittee is required under state, federal or local law to report a spill or release of hazardous substances that occurs at, on, over, under or affects the public right of way, the permittee must also notify the Director of the Bureau of Transportation and the Spill Prevention and Citizen Reporting group within two business days of when the report is required under state, federal or local law.

J. If a permittee encounters contaminated media within the public right of way that poses an imminent threat to human health, the environment, or the waters of the State or requires the use of personal protective equipment above Level D to conduct the permitted work, the Permittee must notify the Director of the Bureau of Transportation and Director of the Bureau of Environmental Services within two business days of encountering the contaminated media.

17.24.070 Engineering and Superintendence for Street and Transportation Facility Public Improvements.

A. The City Engineer shall:

1. Make all necessary surveys;
2. Mark all grades;
3. Prepare, fix, and prescribe all plans and specifications;
4. Provide engineering provisions and approvals;
5. Test and evaluate all project materials and resources as required;
6. Inspect and approve all work done. At the option of the City Engineer, items 1, 2, and 3 above may be done by a professionally registered consulting engineer working under private contract with the permittee.

B. If a permittee, person, or agency seeks to have a public improvement constructed under contract in the name of the City, then the permittee shall be charged for engineering and superintendence services in an amount equal to the Director of the Bureau of Transportation estimate of the actual costs of such services in accordance with

the provisions of Section 5.48.050. This fee shall be paid prior to the issuance of permittee's permit for public improvement.

C. If a permittee, person or agency seeks to have a public improvement constructed under private contract between the permittee and a contractor, or if the permittee desires to do the work personally or have it done under his or her direction, then the permittee shall be charged for engineering and superintendence services in an amount computed as follows below. This fee shall be paid prior to the issuance of permittee's permit for public improvements.

Engineering and superintendence fees:

1. City does design and survey - see Subsection 17.24.025 A.
2. Consultant does design and survey - see Subsection 17.24.025 A.
3. Consultant does design, City does survey - see Subsection 17.24.025 A. plus survey actual costs by authority of Section 5.48.030.

D. If the specifications or other contract documents are not strictly complied with or the work is not completed within the time specified in the permit, the Director of the Bureau of Transportation shall refuse to accept the work. If the work is refused by the Director of the Bureau of Transportation, it shall not thereafter be accepted unless corrected to conform to plans and specifications and unless approved by the City Council.

17.24.080 Work Done Under Permit.

A. All work done under and in pursuance of a permit shall be under the authorization of the Director of the Bureau of Transportation, who shall determine the details of the improvement and whose orders in regard to the improvement and the execution of the same shall be obeyed by the applicant for the permit and by the persons doing the work.

B. The Director of the Bureau of Transportation shall have the authority to refuse issuance of permits for work within the street right of way to any Person until the requirements of permits previously issued are complied with. This authority includes, but is not limited to, denial of a permit when the applicant is delinquent in payment of fees or City charges for work performed for the applicant by the City or when the applicant has failed to complete work on any previously issued permit or permits.

17.24.085 Original Documents Become the Property of the City.

Any and all plans, specifications, survey notes or other original documents as required by the Director of the Bureau of Transportation that were either prepared for or produced during the design or construction of a public improvement, become the property of the City and shall be delivered to the Director of the Bureau of Transportation prior to acceptance of the improvement by the City Engineer.

17.24.090 Certificate by City Engineer.

During the course of construction and prior to the issuance of a certificate of completion for a public improvement under this Chapter, the City Engineer shall inspect the improvement and determine if the various kinds of work performed are in compliance with the plans, specifications and allowances of the permit as to quality of workmanship. Furthermore, the City Engineer shall check the improvement for alignment, proper computation of quantities and conformance with the established grade. If all of the work required is completed and done to the satisfaction of the City Engineer, the City Engineer shall give a certificate therefor to that effect and that the improvement is accepted, if done within the completion date, as hereinabove set forth, and within recorded public right of way and easements. Otherwise, the acceptance may be made by the Council on the certification of conformity to Code provisions and proper grades filed by the City Engineer.

17.24.100 Street Pavement Preservation.

After any street has been constructed, reconstructed, or paved by City forces, under City contract, or under permit, the pavement surface shall not thereafter be cut or opened for a period of 5 years.

The Director of the Bureau of Transportation may grant exemptions to this prohibition in order to facilitate development on adjacent properties, provide for emergency repairs to subsurface facilities, provide for underground service connections to adjacent properties or allow the upgrading of underground utility facilities.

When granting exceptions to this regulation, the Director of the Bureau of Transportation may impose conditions determined appropriate to insure the rapid and complete restoration of the street and the surface paving. Repaving may include surface grinding, base and sub-base repairs, or other related work as needed, and may include up to full-width surface paving of the roadway.

In addition to the street opening permit, any person who is required to partially or fully repave a street shall obtain a street improvement permit and be responsible for the full cost of plan review, construction inspection, material testing, bonding, and all other City expenses related to the work.

If the Director of the Bureau of Transportation determines that final repaving of the street is not appropriate at that particular time for reasons relating to weather or other short term problems, the Director of the Bureau of Transportation may grant a delay until proper conditions allow for repaving.

17.24.105 Regulations Governing Excavations and Disturbance of Pavement on Transit Mall**A. Definitions.**

1. For the purposes of this Section the Transit Mall is defined as Fifth Avenue and Sixth Avenue from the south line of SW Jackson Street to the north line of NW Irving Street, NW Irving Street from the west line of NW 5th Avenue to the east line of NW 6th Avenue and SW Jackson Street from the west line of SW Fifth Avenue to the east line of SW 6th avenue.

2. Transit Mall Pavement is defined as all surface paving including the curb and any below grade slab or structural element supporting the surface paving located between the curb lines of the Transit Mall.

3. Emergency for the purpose of this section means an unanticipated failure of an existing facility that creates a public hazard or an interruption of service to subscribers or customers that cannot be resolved using other routes or facilities.

B. No person shall undertake any excavation nor disturb the Transit Mall Pavement except as provided below.

1. Maintenance of the brick pavers, curbs, transit way or asphalt pavement by the City or TriMet.

2. In order to provide for repairs to subsurface facilities made necessary by an emergency.

3. In order to provide a utility service connection to an adjacent property when the utility can demonstrate to the satisfaction of the Director of the Bureau of Transportation that there is no alternative means of providing service to the property.

4. The Director of the Bureau of Transportation may allow a public utility to excavate the transit mall pavement for,

a. replacement of an underground facility that has reached the end of its useful life or,

b. system expansion necessary to meet the public utilities obligation to serve its customers if, in the opinion of the Director of Transportation, the public utility has adequately demonstrated that no alternative location or means of providing service can adequately meet that need. The cost of providing service from an alternative location or alternative means shall not be a consideration in the Director of Transportation's decision.

5. The Director of the Bureau of Transportation may require that an applicant requesting to do work under the provisions of Subsection 17.24.105 B.4. provide the Director a minimum of two years advance notice of the need to replace or expand facilities to allow for coordination with any planned major maintenance work to be performed by TriMet, the Portland Bureau of

Transportation or another utility with permission to operate within the City of Portland.

C. When granting permits to excavate or disturb Transit Mall pavement, the Director of the Bureau of Transportation will impose conditions determined appropriate to insure the rapid and complete restoration of the Transit Mall Pavement to the originally constructed pavement section and surfacing.

1. Any person who is required to reconstruct Transit Mall Pavement shall provide engineered plans detailing how the work will be done and the Transit Mall pavement will be restored. The permittee shall be responsible for the full cost of the reconstruction. Full cost includes any City fee's and charges including but not limited to plan review, construction inspection, traffic mitigation, material testing, and all other expenses related to the work incurred by the Portland Bureau of Transportation.

2. If the Director of the Bureau of Transportation determines that final restoration of the Transit Mall pavement is not appropriate at that particular time for reasons relating to weather or other short term conflict, the Director of the Bureau of Transportation may grant or order a delay until proper conditions allow for the restoration to occur.

17.24.110 Record of Permits.

The Director of the Bureau of Transportation shall keep a record of improvements under permit and the issuance of permits under this Chapter, and the date of certificate of approval and acceptance if made.

17.24.120 Removal of Improvement.

In the event the Director of the Bureau of Transportation or the City Council does not accept an improvement made pursuant to permit under this Chapter within 1 year after completion and tender for approval, then the permittee shall remove the same and restore the public area to its prior condition at the permittee's own expense, whenever and to the extent directed by the Director of the Bureau of Transportation.

17.24.130 Preservation of Cobblestones.

A. As used in this Section, "permit" means a valid permit issued under Section 17.24.010 and "permittee" means a person to whom a permit is issued, or if no permit is required, the person undertaking the work.

B. Cobblestones, also referred to as Belgian building or paving blocks, located in streets of the City are City property and remain City property notwithstanding their excavation by a permittee.

C. It is the duty of the Bureau of Transportation to make available to the permittee a copy of the regulations authorized by this Section.

D. A permittee shall preserve for delivery to the City quantities of 150 or more cobblestones displaced by excavations of City streets. A report of the number and location of the cobblestones shall be sent to the Bureau of Parks, Operations Division, and permittee shall deliver the cobblestones to a site as directed by the Bureau of Parks. The Commissioner of the Bureau of Parks hereby is delegated authority to issue additional regulations providing for the preservation of cobblestones excavated from City street areas.

E. At the request of the Portland Historical Landmarks Commission, but not less than once annually, the Bureau of Parks shall advise the Commission of the number of cobblestones then being stored. The deployment of stored cobblestones shall be determined by the Portland Historical Landmarks Commission (and/or recommended to the City Council). Criteria for deployment shall be established by the Commission.

Chapter 17.25, Sidewalk Cafes, is amended as follows:

17.25.020 A. Operate a Sidewalk Cafe. Operate a Sidewalk Cafe means serving food or beverage from ~~an adjacent~~ a cafe or restaurant located in an adjacent building to patrons seated at tables located within the Sidewalk area adjacent to the cafe or restaurant.

17.25.080 H. ~~Storage of Materials shall be prohibited.~~ All furniture and materials equipment used in the operation of a sidewalk café shall be removed within a period of 10 days from the right-of-way when not ~~in~~ available for use by patron's. Removal of furniture and equipment may be required, on a case by case basis, outside of the business' hours of operation if determined necessary for safety or other reasons at the discretion of the ~~City Engineer~~ Director of the Bureau of Transportation. The Portland Police Bureau or the Office of Neighborhood Involvement may provide recommendations for the consideration by the ~~City Engineer~~ Director of the Bureau of Transportation.

Chapter 17.27, KIOSKS, is replaced as follows:

17.27 Structural Driveways

17.27.200 Structural Driveway Defined.

A structural driveway is any structure intended to provide vehicular access to parking and maneuvering space on private property from a public right of way.

17.27.205 Structural Driveways in Public Streets.

The Director of the Bureau of Transportation may grant a revocable permit to an abutting property owner for the construction and maintenance of a structural driveway within a

public street if in the Director of the Bureau of Transportation's judgment there is no other available means of obtaining vehicular access to a structure on abutting private property.

17.27.210 Permit Application.

The applicant shall submit to the Director of the Bureau of Transportation two complete site plans, two sets of structural plans and calculations bearing the registration stamp and signature of an engineer licensed in the State of Oregon to design structures, and a non-refundable application fee of \$250. The Director of the Bureau of Transportation may require the applicant to submit a complete geotechnical report and any recommendations made in connection with such report may be required.

17.27.220 Engineer's Review.

A. The City Engineer will review the application to determine compliance with design standards, possible conflicts with public facilities, and compatibility with existing or future street plans. If in the course of the review the City Engineer determines that modifications to the proposed plan are necessary, the applicant shall make the requested modifications and resubmit the plan to the City Engineer with all required corrections.

B. The decision of the City Engineer as to the suitability of the proposed location, materials used, technical requirements of specifications and plans shall be final and conclusive.

17.27.230 Design Standards.

A. Load ratings and structural design shall be in accordance with the most current edition of the Standard Specifications for Highway Bridges published by the American Association of State Highway and Transportation Officials (AASHTO) in effect at the time of permit issuance or such alternative specifications as are adopted by the City Engineer.

B. Structural driveways shall have a minimum load rating of H-15 except that in cases where the structural driveway accesses only one single family residential structure from a Local Service Traffic Street as defined by the Transportation Element of the Comprehensive Plan, the City Engineer may allow a structural driveway in conformance with Uniform Building Code standards if, in the opinion of the City Engineer, the circumstances are such that the lower rating will not create a hazard to the public or users of the structural driveway and permanent vehicle barriers are installed to prevent access to the structure by vehicles exceeding eight feet in height.

C. The City Engineer may require vehicle barriers, railings, and other appurtenances in excess of AASHTO standards and higher load ratings if in the City Engineer's opinion such appurtenances are necessary to protect the public and users of the structural driveway.

17.27.240 Permit.

A. Permits for structural driveways will be issued only to the owner of the property abutting the half of the street area in which the structural driveway is proposed to be built. The burdens and benefits of any such permit shall run with the property abutting the half of the street area in which the structural driveway is proposed to be built. Upon sale or disposition of the property, the permit shall automatically transfer to any new owner of the property, except when the permit specifically prohibits such transfer.

B. The abutting property owner shall be liable to any person who is injured or otherwise suffers damage by reason of the property owners use of the street area. Furthermore, said abutting property owner(s) shall be liable to the City of Portland for any judgment or expense incurred or paid by the City by reason of the existence of a structural driveway in the street area.

C. This permit shall be for the use of the street area only, and shall not exempt the permittees from obtaining any license or permit required by the City Code or Ordinances for any act to be performed under this permit, nor shall this permit waive the provisions of any City Code, Ordinance, or the City Charter, except as herein stated.

D. The conditions in a permit for a structural driveway are burdens upon the abutting property which shall run with the land, and the permit shall be recorded with the Multnomah County Records Division, and the cost of recording shall be paid by the applicant.

17.27.250 Revocation of Permit.

A. A structural driveway permit may be revoked by the Director of the Bureau of Transportation:

1. Upon determination of a public need for the area;
2. If the structural driveway is in conflict with any public improvement plan;
3. If the permittee fails to maintain the structure to the City Engineer's satisfaction;
4. If the permittee allows a dangerous condition, as determined by the City Engineer, to continue for more than twenty days after being given notice to correct the condition; or
5. Upon failure to comply with any condition of the permit.

B. The City Council may revoke any structural driveway permit for any reason the Council determines to be in the best interest of the City.

C. No grant of any permit, expenditure of money in reliance thereon, or lapse of time shall give the permittee any right to the continued existence of a structure or to any damages or claims against the City arising out of revocation.

17.27.260 Removal of Structural Driveways.

Upon revocation of the permit, the permittee or any successor permittee, shall at permittee's own cost remove such structure within 30 days after written notice to the permittee by the City of such revocation, unless the City Council specifies a shorter period, and shall return the street area in which the structure was located to the condition of the street area immediately surrounding it, to the satisfaction of the Director of the Bureau of Transportation. If the permittee does not remove the structure and/or return the street area to a condition satisfactory to the Director of the Bureau of Transportation, the Director of the Bureau of Transportation may do so, and the permittee shall be personally liable to the City for any and all costs of dismantling the structure and reconstructing the street area. The costs of removal and reconstruction shall become a lien upon the abutting property until paid by the permittee.

17.27.270 Fees.

The fee for plan review, permit issuance, and any City inspection of structural driveways shall be the full cost incurred by the City for such services. The minimum fee shall be \$250. If full cost will exceed \$250, the applicant shall pay any additional costs prior to issuance of the permit. Amounts paid by the applicant in excess of full City costs, which exceed the \$250 minimum fee, will be refunded to the applicant.

17.27.280 Inspection of Construction Required.

The City Engineer may inspect the construction; require the permittee to retain the services of a special inspector who will submit inspection reports directly to the City Engineer, or a combination of the above. It shall be permittee's responsibility to obtain the required inspections and failure to do so is grounds for revocation of the permit.

Chapter 17.28, SIDEWALKS, CURBS AND DRIVEWAYS, is amended as follows:

17.28.011 Planting Strip Defined

"Planting Strip" means the area between the curb, or in the case where there is no curb the edge of the roadway, and the abutting property line not improved by surfacing that is intended for the use of pedestrians. Any openings made in a surfaced area between the roadway and the abutting property line for the purpose of planting trees or other vegetation shall be considered part of the planting strip. Grates or other coverings of said areas shall not be considered as surfacing intended for the use of pedestrians.

17.28.020 D. 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 Director of the Bureau of Transportation ~~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.

17.28.030 Notice for Construction of Sidewalks and Curbs.

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 Director of the Bureau of Transportation ~~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 the address where the notice was posted ~~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~~ persons with disabilities as mandated by the Americans with Disabilities Act.

17.28.040 Construction Alternatives.

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 Director of the Bureau of Transportation ~~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.

17.28.060 Location, Size and Materials of Sidewalks and Curbs.

The Director of the Bureau of Transportation ~~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 shall be designated by the Director of the Bureau of Transportation. 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 Director of the Bureau of Transportation ~~City Engineer~~ may permit installation of a temporary sidewalk for a specified period, and the City Engineer shall designate specifications for the temporary improvement.

17.28.065 A. As a part of street improvements adjacent to developing or redeveloping property, the Director of the Bureau of Transportation ~~City Engineer~~ may, where determined appropriate and practicable, require one or more bicycle racks.

17.28.065 B. The location and type of rack shall be determined by the Director of the Bureau of Transportation ~~City Engineer~~ based on sidewalk width, location of other elements in the right of way, and adjacent land uses.

17.28.065 C. 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 Director of the Bureau of Transportation ~~City Engineer~~.

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

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 or she 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 the address where the notice was posted ~~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.

17.28.100 Driveways Defined.

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

A. "Driveway" means a ~~concrete~~ paved 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.

17.28.110 Driveways - Permits and Conditions.

Upon appropriate application and payment or fees, as provided in Chapter 17.24, the Director of the Bureau of Transportation ~~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	Minimum	Maximum
Frontage	Width	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 Director of the Bureau of Transportation ~~City Engineer or~~ and the 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:

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 Director of the Bureau of Transportation ~~City Engineer or~~ and the 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 Director of the Bureau of Transportation ~~City Engineer~~ specifically approves or requires the same. Any applicant requesting a driveway

at variance with these standards shall provide such information as the Director of the Bureau of Transportation and the City Traffic Engineer may require in support of the application. The Director of the Bureau of Transportation City Engineer may establish conditions deemed necessary to insure the safe and orderly flow of pedestrian and vehicular traffic and the decision of the Director of the Bureau of Transportation City Engineer as to the widths and location of driveways shall be final and conclusive.

5. The Director of the Bureau of Transportation City Engineer may require joint or shared use of a driveway by two properties in separate ownership. The Director of the Bureau of Transportation City Engineer may ~~recommend~~ establish 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 trees, maximize opportunities for vegetated stormwater management, reduce conflicts with pedestrians and bicycles and enhance the pedestrian environment.

D. The Director of the Bureau of Transportation 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 Director of the Bureau of Transportation 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 Director of the Bureau of Transportation 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 Director of the Bureau of Transportation City Engineer finds that a property owner is permitting access where a properly constructed driveway does not exist, the Director of the Bureau of Transportation 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 Director of the Bureau of Transportation 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.

G. Enforcement powers. Within 20 days of written notice from the Director of the Bureau of Transportation ~~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.

Chapter 17.40 is amended as follows:

PROTECTION OF PUBLIC RIGHT-OF-WAY PAVEMENT ROADWAY REPAIRS

17.40.010 C. It is unlawful for any person to cause or permit to be placed upon any pavement without immediately removing the same, any concrete, plaster or other material likely to adhere to the pavement. However, during the course of construction upon adjacent property, the Director of the Bureau of Transportation ~~City Engineer~~ may issue a permit for such activity if he or she determine that sufficient protection will be provided to prevent injury to the pavement.

17.40.020 Endangering Pavement.

In the course of construction under ~~Council permit~~ or a permit issued by the City ~~Engineer~~, it is unlawful for any person to cause or permit any undermining of any pavement not cut or to be replaced as a part of the work; to tunnel under street area without providing complete support of the pavement above such tunnel; to cause or permit to be washed away the ground or fill material supporting pavement; to make any excavation within street area pursuant to permit without securely and safely bracing such excavation so as to prevent the sides or walls of the excavation from falling or caving in; to cause or permit any excavation to be made on private property adjacent to street area without securely and safely bracing the wall or side of the excavation near the paved area so as to prevent falling or caving in and to protect the support of the pavement; or to cause or permit any other act to be done which would tend to endanger the direct or lateral support of the pavement.

17.40.040 Damages to Public Right-of-way.

A. If in the Director of the Bureau of Transportation's opinion the public right-of-way has been negligently or intentionally damaged, the Director of the Bureau of Transportation may act to identify the person responsible for such damage. The Director of the Bureau of Transportation may then issue a notice requiring the responsible person to repair and restore the public right of way to the Director of the Bureau of Transportation's satisfaction.

B. Once the responsible person has been notified to repair the public right-of-way to the Director of the Bureau of Transportation's satisfaction, the responsible person shall undertake to make and complete the repairs within 20 days.

C. If the responsible person fails, neglects or refuses to make repairs within the specified time, the Director of the Bureau of Transportation may;

1. Institute an action before the Code Hearings Officer as set out in Title 22 of this Code, or

2. Cause appropriate action to be instituted in a court of competent jurisdiction, or

3. Taking such other actions as the Director of the Bureau of Transportation in the exercise of his or her discretion deems appropriate including, but not limited to, summary abatement.

Chapter 17.44, Street Obstructions, Advertising Benches, is replaced as follows:

17.44 STREET OBSTRUCTIONS**17.44 010 Unlawful Acts Enumerated.**

A. It is unlawful for any person to obstruct or cause to be obstructed any roadway, curb or sidewalk by leaving or placing, any object, material or article which may prevent free passage over any part of such street or sidewalk area. This Section does not authorize any action in violation of any other Title or regulation.

B. It is unlawful for any person to erect or cause to be erected any structure in, over or upon any dedicated street area, except that Director of the Bureau of Transportation may, based on findings of necessity, grant permission for walls, fences and steps, that otherwise comply with the Code of the City. Also, on buildings whose front is located on the property line, the Director of the Bureau of Transportation may allow decorative facings, certain types of utility meters, utility valves, and other utility appurtenances, to

extend into the street area an amount that does not interfere with the public use of said street. The Director of the Bureau of Transportation, upon determining a public need for areas occupied by such walls, fences, steps, facings, or utility meter valves and other appurtenances, may revoke said permission and the property owner or utility will be required to remove them from the street area.

C. It is unlawful for any person to erect or cause to be erected any sign in, over, or upon any public right of way. For the purposes of this section, sign shall be defined as provided in Title 32.

D. This section shall not apply to:

1. Any use, sign, or structure for which a permit has been issued or which is erected under authority of any Title;
2. Motor vehicles lawfully parked pursuant to City Regulations;
3. Barricades placed by or with the approval of the Director of the Bureau of Transportation or the Traffic Engineer; nor
4. Temporary closures and occupancies pursuant to this Chapter.
5. Merchandise in the course of delivery may be placed on the sidewalk while actively loading and unloading for not longer than two hours provided that the provisions of City Code Section 14.50.030 Sidewalk Use are complied with.

Chapter 17.45, BANNER STANDARDS, is replaced as follows:

Chapter 17.45 ADVERTISING ON BUS BENCHES

17.45.030 Advertising Bench Allowed.

For the free use and accommodation of persons waiting for public transportation, benches may be placed on the street area between the property line and the curb in the public right of way of the City, and such benches may bear advertising messages. Permits for benches bearing advertisements shall be granted only to the Tri-County Metropolitan Transit District (TriMet). For purposes of this chapter, the term bench shall also apply to transit shelters owned, operated and maintained by TriMet.

17.45.040 Fee.

An annual fee as prescribed in Section 17.24.010 shall be collected for every permit issued to install an advertising bench. This fee is due July 1 and shall be paid by July 15.

Permits may be issued without payment of any fee for benches where no advertising or other message will be displayed.

17.45.050 Revocation.

The Director of the Bureau of Transportation may revoke any permit issued under Sections 17.45.030 - 17.45.040 at any time in the event the public's need requires it, the permittee fails to comply with the conditions of the permit, for any fraud or misrepresentation in the application, or for any reason which would have been grounds for denial of the initial application.

17.45.060 Authority.

The Director of the Bureau of Transportation is authorized to enter into an intergovernmental agreement with TriMet to govern procedures in the issuance of permits under this Section.

Chapter 17.46, NEWSRACKS, is amended as follows:

17.46.020 H. ~~The City Engineer~~ Director of the Portland Bureau of Transportation, upon the request of the majority of distributors maintaining newsracks on any one City-owned newsrack pedestal, shall consider the movement of the newsrack pedestal to another location within the Mass Transit Avenues. In determining the location the ~~City Engineer~~ Director of the Portland Bureau of Transportation shall consider the need to prevent the obstruction of pedestrian traffic as balanced against the need of distributors to have locations conducive to high volume sales.

17.46.030 Violations of Ordinance.

- A.** Upon determination by the ~~City Engineer~~ Director of the Portland Bureau of Transportation that a newsrack has been installed, used or maintained in violation of Subsections 17.46.020 A - G of this Chapter, an order to correct the offending condition shall be issued to the distributor of the newsrack, if known, and if not, to the publication distributed therein. Such order shall be telephoned and confirmed by mailing a copy of the order by certified mail, return receipt requested. The order shall specifically describe the offending condition and suggest actions necessary to correct the condition. Failure to properly correct the offending condition within 3 days (excluding Saturdays and legal holidays) after the mailing date of the order shall result in the offending newsrack being summarily removed by the ~~City Engineer~~ Director of the Portland Bureau of Transportation from the Mass Transit Avenues and placed in the nearest sidewalk area where the newsrack would not be in violation of this Chapter. Upon removing any newsrack from a Mass Transit Avenue the ~~City Engineer~~ Director of the Portland Bureau of Transportation shall provide immediate notification

by telephone of the location to which the newsrack has been removed. A copy of such notice shall also be immediately mailed. Any order issued under this Subsection ~~(a)~~ A. may be appealed pursuant to Section 17.46.040, but the filing of an appeal shall not stay the effectiveness of the order.

- B.** Upon determination by the ~~City Engineer~~ Director of the Portland Bureau of Transportation that a newsrack has been used, maintained or installed in violation of Subsections 17.46.020 D, E or G, or Section 17.46.060 an order to correct the offending condition shall be issued to the distributor of the newsrack, if known, and if not, to the publication distributed therein. Such order shall be telephoned and confirmed by mailing a copy of the order, return receipt requested. The order shall specifically describe the offending condition and suggest actions to correct the condition. Failure to properly correct the offending condition within 10 days after the mailing date of the order shall result in the offending newsrack being summarily removed by the ~~City Engineer~~ Director of the Portland Bureau of Transportation from the Mass Transit Avenues and placed in the nearest sidewalk area where the newsrack would not be in violation of this Chapter. Upon removing any newsrack from a Mass Transit Avenue, the ~~City Engineer~~ Director of the Portland Bureau of Transportation shall provide immediate notification of the location to which the newsrack has been removed, by telephone, and copy of such notification shall also be immediately mailed. Any order issued under this Subsection B may be appealed pursuant to Section 17.46.040 and the filing of an appeal shall stay the effectiveness of the order until the Council shall have decided the appeal.

17.46.040 Appeals.

Any person or entity aggrieved by a finding, determination, notice or action taken under the provisions of this Chapter may appeal and shall be apprised of his or her right to appeal to the Council. An appeal must be perfected within 10 days after receipt of notice of any protested decision or action by filing with the Office of the Auditor a letter of appeal briefly stating therein the basis for such appeal. A hearing shall be held on a date no more than 15 days after receipt of the letter of appeal. Appellant shall be given at least 5 days notice of the time and place of the hearing. The Council shall give the appellant, and any other interested party, a reasonable opportunity to be heard in order to show cause why the determination of the ~~City Engineer~~ Director of the Portland Bureau of Transportation should not be upheld. In all such cases, the burden of proof shall be upon the appellant to show that there was no substantial evidence to support the action taken by the ~~City Engineer~~ Director of the Portland Bureau of Transportation. At the conclusion of the hearing, the Council shall make a final and conclusive determination.

17.46.050 ~~City Engineer~~ Director of the Portland Bureau of Transportation

Designated Representative.

~~City Engineer~~ Director of the Portland Bureau of Transportation as used in this Ordinance shall include his or her designated representative.

17.46.070 Penalty.

Any person convicted of intentionally, knowingly or recklessly violating any lawfully issued order of the ~~City Engineer~~ Director of the Portland Bureau of Transportation by returning a removed newsrack to the area regulated by this Chapter prior to correcting all defects, or of violating Subsection 17.46.020 F, shall be punished upon conviction by a fine of not more than \$500.

Chapter 17.48, MOVING BUILDINGS, is amended as follows:**17.48.030 Moving Permit.**

A. When a building to be moved does not exceed three stories in height, the Director of the Bureau of Transportation ~~City Engineer~~ may issue a moving permit, fixing the route to be used for the move, with the prior approval of the Traffic Engineer of the route, and upon the terms as he or she may deem necessary. The Director of the Bureau of Transportation ~~City Engineer~~ shall keep a copy of the permit so issued.

B. When a building to be moved exceeds three stories in height, any permit for moving shall be issued by the Council by ordinance. The Ordinance shall set forth any conditions upon the moving which may be deemed necessary and which are not provided for in this Chapter, and shall set forth the Director of the Bureau of Transportation's ~~City Engineer's~~ estimate of the cost to the City of issuing the permit, investigating the application, and supervising the moving, to be paid by the applicant for permit as a part of the fee elsewhere prescribed in Section 17.24.020.

C. No moving permit shall be issued until the applicant shall have filed with the Auditor an insurance policy or certificate of insurance and form of policy for public liability insurance naming as additional insured's the of-City, its officers, agents and employees, in the amounts of at least \$1,000,000 (one million dollars), or the maximum limits of the Oregon Tort Claims Act as subsequently amended, whichever is greater; the insurance shall also contain a provision that it shall not be cancelable during the term of the permit.

D. A moving permit shall not be issued until the applicant has deposited with the Treasurer a sum sufficient, in the judgment of the Director of the Bureau of Transportation ~~City Engineer~~, to cover the cost of repairing any and all damage or injury to street or streets, or the improvements therein including street trees, which may result from the moving operation, and also such sums as the Bureau of Transportation and Portland Fire & Rescue, and any other City bureau involved, may require to cover the cost of moving, repairing, restoring or replacing any wires, signals, trees or other properties or installations which may be necessary in preparation for or in consequence of

any moving operation. Upon completion of the moving operation, the bureau or bureaus which may have required such deposit and the Director of the Bureau of Transportation City Engineer shall submit to the Treasurer a statement of the costs of any operations, repairs or replacements occasioned by or as the result of the moving operation, and other information as the Treasurer may request, in order to reimburse the proper account from the money so deposited, and shall authorize the Treasurer in writing to refund the remaining portion of such deposit, if any, to the depositor. If the cost exceeds the amount deposited, the depositor shall promptly reimburse the affected bureau or bureaus for such additional cost.

17.48.040 Regulations.

The moving of a building or structure under a moving permit shall be continuous day-by-day during all the hours specified by the Director of the Bureau of Transportation City Engineer until completed, with the least possible obstruction to the streets occupied. It is unlawful for any person moving a building or structure under a moving permit to leave said building or structure or any portion thereof stationary in the street, road or highway area for a period in excess of 2 hours during the hours of the day specified by the Director of the Bureau of Transportation City Engineer, unless an emergency exists by reason of unforeseen difficulties encountered in cutting wires, trees, or removing obstructions in the course of the route selected. Removal and pruning of trees shall be conducted in accordance with the City Forester's requirements including the need to obtain tree permits. All movement in the street area must be completed within an elapsed time of 36 hours unless application is made for a longer period of time and permission specifically granted therefore by the Director of the Bureau of Transportation City Engineer prior to the commencement of any movement; provided, however, that if any unforeseen difficulties are encountered and an extension of time necessitated thereby is requested from the Director of the Bureau of Transportation City Engineer prior to the expiration of 36 hours from the commencement of the moving operation, the Director of the Bureau of Transportation City Engineer may extend the 36 hour time by specific additional time as deemed necessary.

Red lights or other warning devices sufficient to warn and protect traffic shall be displayed in conspicuous places at or on a building or structure being moved during the hours in which streetlights are lighted. The Director of the Bureau of Transportation City Engineer may require additional warning devices based on findings that the warning devices displayed by the mover are insufficient.

17.48.050 Cutting Wires in Moving Operation.

When overhead wires in any street designated in a permit for moving a building or structure will interfere with the moving operation, the permittee shall give to the owner of the wire, including the City when it is the owner, 48 hours notice of intent to have the wire temporarily removed. The permittee shall pay in advance or tender to the owner, other than the City, the amount estimated to be necessary to remove the wire and replace the same. When the City owns the wire, the cost of temporary removal and replacement

shall be included in the requirement for deposit prerequisite to permit, as provided in this Chapter. If the permittee disputes the amount demanded by the owner as the advance or tender, the amount shall be determined by the Director of the Bureau of Transportation City Engineer. The permittee of a moving permit shall pay the actual expense of removing and replacing the wire, and as soon as the actual expense can be determined the permittee shall immediately pay any deficit and the owner shall refund any surplus to him or her. Upon receipt or tender of the amount estimated or the amount fixed by the Director of the Bureau of Transportation City Engineer in case of dispute, the owner of the wire shall remove it in time to permit the passage of the building or structure without unnecessary delay.

Chapter 17.52, TREES, is amended as follows:

17.52.010 Clearances.

It is unlawful for owners or occupants to permit any tree upon or in front of their premises, to interfere with or come in contact with wires belonging to the City, or to permit the branches of such trees to be less than 7-1/2 feet above the sidewalk, or 11 feet above the roadway; provided, however, that on any street which is designated as a Regional Trafficway, Major City Traffic Street, or a District Collector, or a one-way street, and where parking has been prohibited, limbs of trees shall be trimmed to a height of 14 feet above the crown of the street. Whenever the Director of the Bureau of Transportation City Engineer finds that a condition prohibited by this Section exists, the condition is a public nuisance. In addition to the penal enforcement of this Title, the Commissioner of the department under whom the Office of the Director of the Bureau of Transportation City Engineer is administered may take steps in accordance with the procedures set forth in Title 29 concerning abatement of nuisances, including assessment of cost of abatement against the property on which or in front of which the tree is located.

17.52.030 Interference with Sewer by Tree Roots.

Roots of any tree in dedicated street area which have entered any sewer, drain or house connection in the street area, or roots of any tree which have entered any sewer, drain or connection in a City-owned sewer easement, and which are stopping, restricting or retarding the flow of sewage or drainage, are hereby declared to be a public nuisance. Whenever the Director of the Bureau of Environmental Services City Engineer finds that such condition appears to exist, the Commissioner of the department under whom the Office of the Director of the Bureau of Environmental Services City Engineer is administered shall take steps in accordance with the procedure set forth in Title 29 concerning abatement of nuisances, including assessment of costs of abatement against the property abutting the street area and owning the tree. As a part of the abatement, reasonable steps shall be taken to prevent future root entry and interference with the flow of sewage or drainage. If the Director of the Bureau of Environmental Services City Engineer believes that only removal of the tree will reasonably prevent future root entry into the sewage or drainage facility, the Director of the Bureau of Environmental Services City Engineer shall so notify the owner and the Director of the Bureau of Parks and Recreation. Thereupon if the Director of the Bureau of Parks and Recreation concurs

with the determination that the removal is necessary, and the owner has not removed the tree, the Director of the Bureau of Environmental Services ~~City Engineer~~ shall require the tree to be removed as a part of the nuisance abatement and the notice to abate shall so state. A permit for removal shall be obtained, by the owner removing the tree, from the Bureau of ~~Nuisance Abatement~~ Parks and Recreation, as provided in this Chapter.

17.52.040 Curb or Sidewalk Damage from Ornamental Trees.

When the curb or sidewalk, or both, abutting any land becomes damaged or in a state of disrepair because of an ornamental tree maintained by the property owner, the repair of the curb or sidewalk, or both, shall be treated as other curb or sidewalk repairs in accordance with the provisions of this Title. The removal of any tree or portion thereof as the Director of the Bureau of Transportation ~~City Engineer~~ may determine necessary, shall be deemed a part of the curb or sidewalk repair.

17.52.050 Tree Tubs.

Any person desiring to place a tub or receptacle for a tree or shrub on top of the paved or hard surfaced portion of street area shall first apply to the Director of the Bureau of Transportation ~~City Engineer~~ for a permit. The permit may be issued by the Director of the Bureau of Transportation ~~City Engineer~~ upon approval of the Traffic Engineer under such safeguards and conditions as the Director of the Bureau of Transportation ~~City Engineer~~ and the City Attorney may find necessary or appropriate to protect the public safety and to protect the City against claims of liability. The permit may be revoked ~~annulled~~ by the Director of the Bureau of Transportation ~~City Engineer~~ for any violation of conditions or terms of the permit, or for neglect of the plantings or abandonment of use. After revocation, it is unlawful for the permittee or permittee's successor in Title to the abutting property to allow the tub or receptacle to remain in street area.

Chapter 17.56, PUBLIC UTILITIES, is amended as follows:

17.56.005 Definitions.

For the purposes of this Chapter, "public utility" includes any person that installs, constructs, reconstructs, repairs, alters or maintains facilities for the distribution, transmission or collection of sewer, water, gas, petroleum products, steam, electricity, telecommunications, or other services, together with any associated wires, cables, poles, conduits, appliances or apparatus in, on, over, through or in any manner beneath the surface of the streets and that person currently possesses a franchise or privilege granted by the City of Portland or is a City bureau charged with providing such service to the public.

17.56.020 Plans for Underground Construction by Franchise Holder.

Any person conducting a business within the City under a City franchise or permit, giving to such person the right to construct underground conduits or to lay pipes

underground, shall, before entering upon any street for the purpose of cutting into, digging trenches in, or opening any street preparatory to the construction of any conduit or to the laying of any pipes, wires, or cables, file with the Director of the Bureau of Transportation ~~City Engineer~~ detailed plans and specifications of all the proposed construction work. Such plans shall be drawn to a scale prescribed by the Director of the Bureau of Transportation ~~City Engineer~~ and such specifications shall state the manner of construction and the kind of materials proposed to be used. If the plans and specifications are satisfactory to the City Engineer, the Director of the Bureau of Transportation shall ~~approve them and~~ issue a permit to the person filing them to construct the work. If the City Engineer does not approve the plans or specifications or orders changes made therein, the person submitting them shall comply with the City Engineer's requirements and shall file new plans and specifications which are satisfactory to the City Engineer. If these are approved by him, the person may then obtain a permit and proceed with the construction of the work. If in the performance of the work it becomes necessary to deviate from such plans and specifications, deviation shall not be made until first approved by the City Engineer.

Upon completion of the construction for which a permit has been issued, a map showing the location at depths below the surface of the ground of all construction work done under the permit shall be filed with the Director of the Bureau of Transportation ~~City Engineer~~. If changes have been made after the permit is issued, these changes shall be shown in an easily distinguishable manner. The final map shall bear a statement to the effect that the work done under the permit is correctly shown, and shall be signed by an authorized representative of the company doing the work.

The provisions of this Section shall apply both to dedicated rights-of-way and to proposed rights-of-way in approved land divisions which will be dedicated to the public upon plat recording. Permits issued for underground construction in proposed rights-of-way shall require acknowledgment that the permittee will hold the City of Portland harmless against any liability which may occur prior to dedication of the rights-of-way, and further acknowledgment that the permittee assumes all risk of loss which may arise in the event the City or any other public agency subsequently requires changes in or additions to plans or refuses to approve all or any part of permittee's improvements. Permits shall be issued only after street improvement plans have been approved.

Section 17.56.040 Permits in Certain Areas is repealed.

Section 17.56.060 Relocation of Facilities is replaced with the following:

17.56.060 Relocation and Discontinuation of Facilities

A. Relocation of Facilities

1. The Director of the Bureau of Transportation may direct any person owning, operating, or managing any public utility in the City and using facilities

located in public right of way, to temporarily or permanently remove, relocate, change or alter the position of facilities installed by that person or that person's predecessor within the public rights-of-way whenever required. Except in the case of an emergency or as otherwise agreed to by the Director of the Bureau of Transportation, the temporary or permanent removal, relocation, change or alteration of the position of facilities must be completed within 30 days following written notice from the Director of the Bureau of Transportation. A person may request additional time to complete the removal or relocation, which shall not be unreasonably denied. The City may issue such notice when the City has determined that such removal, relocation, change or alteration is reasonably necessary for:

- a. The construction, repair, maintenance or installation of any City improvement or other public improvement in or upon the public rights-of-way, whether a public work by the City or its contractor or the construction, repair, maintenance or installation of a public improvement pursuant to the requirements of the City's development code;
- b. The operations of the City or any governmental entity in or upon the public rights-of-way for governmental purposes; or
- c. When required by the public interest, as determined by the Director of the Bureau of Transportation.

2. Before commencing removal or relocation, the applicant shall obtain a permit as required by Title 17.24.

3. The relocation or removal of utility facilities shall be at no expense or charge to the City.

4. Should the applicant fail to remove or relocate the facility in accordance with notice from the Director of the Bureau of Transportation, the Director of the Bureau of Transportation may declare the facility a nuisance. The Director of the Bureau of Transportation may enforce the removal or relocation by compliance order, stop work order, abatement proceedings, or civil action as authorized by law. For any removal or relocation enforced by the City, the Director of the Bureau of Transportation shall keep a complete account of all related costs and expenses incurred by the City. The Director of the Bureau of Transportation shall provide written notice to the person seeking payment of the City's costs and expenses. If the person fails neglects or refuses to pay all of the City's costs and expenses, upon written approval of the Commissioner in Charge, the Director may have the City Attorney institute legal proceedings in the name of the City to collect any unpaid removal or relocation costs or expenses. In the event that it is necessary for any action or proceeding is commenced or if it becomes necessary for the City to commence an action or proceeding in a court of competent

jurisdiction for removal or relocation or to recover removal or relocation costs, the City shall be seek recover all available statutory costs and disbursements.

5. If removal or relocation is necessary due to a public improvement under a contract entered into between the City and an independent contractor and the failure to remove or relocate within the time specified results in payment to the contractor of any claim for extra compensation for any work or delay under said contract, the applicant shall be liable for payment of the amount paid to the contractor as a direct result of the failure to comply with the time requirements of the City.

B. Discontinuation of Facilities

If a Person intends to discontinue using facilities of its system within all or part of a particular portion of the streets and does not intend to use said facilities again, the Person shall submit to the Director of the Bureau of Transportation for the Director of the Bureau of Transportation's approval a completed application describing the structures or other facilities and the date on, and the method by which the Person will remove such facilities.

Section 17.56.100 Preservation of Cobblestones is repealed.

Chapter 17.60, UNDERGROUND WIRING DISTRICTS, is amended as follows:

17.60.010 Designated.

The following described districts designated as "District A," "District B," "District C," "District D," and "District E," and "District F," mean and include the following streets in the City:

District A: Beginning with the intersection of the south line of SW Madison Street with the east line of SW Front Avenue, running thence westerly, along said south line of SW Madison Street, to its intersection with the west line of SW Broadway; thence northerly along said west line of SW Broadway, to its intersection with the south line of SW Yamhill Street; thence westerly along said south line of SW Yamhill Street to its intersection with the west line of SW 14th Avenue; thence northerly, along said west line of SW 14th Avenue to its intersection with the north line of West Burnside Street; thence easterly, along said north line of West Burnside Street to its intersection with the west line of NW Broadway; thence northerly, along said west line of NW Broadway to its intersection with the north line of NW Glisan Street; thence easterly along said north line of NW Glisan Street to its intersection with the east line of NW Front Avenue; thence southerly, along said east line of NW and SW Front Avenue to the place of beginning.

District B: East Burnside Street, SE Morrison Street and SE Hawthorne Boulevard, from the east line of SE and NE 3rd Avenue to the west line of SE and NE 6th Avenue; and also those portions of other streets parallel thereto lying between the south line of NE Couch Street and the south line of SE Hawthorne Boulevard which are included between a line drawn 100 feet east of and parallel to the east line of SE and NE Grand Avenue; and a line drawn 100 feet west of and parallel to the west line of SE and NE Grand Avenue; and SE Grand Avenue, from the south line of NE Couch Street to the south line of SE Hawthorne Boulevard; it being provided, however, that any crossings over streets in this District which were installed before January 1, 1950 shall be permitted to remain; and it being further provided that additional machine-turned wooden street light poles and overhead wires for street lighting shall be permitted in said District, if approved by the Director of the Bureau of Transportation City Engineer.

District C: NE Martin Luther King, Jr. Boulevard (NE Union Avenue) from 100 feet north of the north line of NE Davis Street to the south line of NE Going Street, it being provided however, that any street light poles and traffic signal poles and any crossings over NE Martin Luther King, Jr. Boulevard (NE Union Avenue) which were installed before January 1, 1950 shall be permitted to remain; and it being further provided that additional machine-turned wooden street light poles and overhead wires for street lighting shall be permitted in said District, if approved by the Director of the Bureau of Transportation City Engineer.

District D: Beginning with the intersection of the center line of SW 4th Avenue and the north line of SW Market Street, running thence easterly along said north line of SW Market Street to its intersection with the center line of SW Harbor Drive; thence southerly along said center line of SW Harbor Drive to its intersection with the south line of SW Arthur Street; thence westerly along said south line of SW Arthur Street to its intersection with the center line of SW Barbur Boulevard; thence northerly along said center line of SW Barbur Boulevard and along the center line of SW 4th Avenue to the place of beginning. ~~However, a minimum overhead cable type system along the northerly line of SW Market Street and guy poles and anchors along the easterly line of SW 4th Avenue shall be permitted in said District if approved by the Portland Development Commission and the City Engineer.~~

District E: NE Airport Way lying between the following described Line 1 and Line 2. Line 1: Beginning at the most northerly corner of Tax Lot (2) of Lots 1 and 2, Block 112, Parkrose, thence running northeasterly in a straight line to a point on the westerly line of NE 112th Avenue, said point being the most westerly point in a common line between the I-205 Freeway right-of-way and NE 112th Avenue, and located southerly of the intersection of NE 112th Avenue with NE Marine Drive. Line 2: The common boundary line between the City of Portland and the City of Gresham approximately 826.0 feet north of the north line of NE Sandy Boulevard at its intersection with NE 181st Avenue; also public use easements 10.0 feet in width granted to the City of Portland and adjacent to either side of NE Airport Way as described above, it being provided, however that any crossings over NE Airport Way and the said 10.0 foot wide public use easements which were installed prior to November 1, 1988 shall be exempted from this District.

District F: All that portion of the SW Gibbs Street right of way between SW Bond Street and the east line of SW Barbur Boulevard and all that portion of the Pacific Highway (I-5) right of way and S.W. Naito Parkway (S.W. Front Avenue) right of way included in a strip of land 60.00 feet in width, 30.00 feet on each side of the center line of S.W. Gibbs Street as such streets were platted on CARUTHERS ADDITION TO THE CITY OF PORTLAND, Multnomah County, Oregon. Overhead lines located on SW Corbett Street running perpendicular to SW Gibbs Street are exempt from this requirement.

17.60.020 Overhead Wires Prohibited.

A. It is unlawful for any person to erect, construct, or maintain on or over the surface of any street or public use easement designated in Section 17.60.010 within an underground wiring district, any wires, poles, cables, appliances, or apparatus of any kind, on, through or by means of which electrical current or communications are transmitted or used.

B. Whenever all existing utility facilities are located underground within a public right-of-way, a person with permission to occupy the same public right-of-way must also locate its new facilities underground.

17.60.030 Application for Permit.

Any person owning a franchise or privilege to erect, construct, or maintain wires, cables, poles, vaults, manholes and other structures, appliances or apparatus on, over, or by means of which electric current is transmitted or used for any purpose in any portion of an underground wiring district, who desires to install, construct, reconstruct, repair, alter or maintain the same shall file with the Director of the Bureau of Transportation City Engineer an application for a permit to install or maintain the facilities in trenches, conduits, structures or subways beneath the surface of the streets or parts thereof within the underground district as required. The application shall be accompanied by the agreement of the applicant promptly to repave and repair any of the streets or portions thereof which are disturbed or undermined by the applicant as the result of exercise of the permit, if granted, the repaving and repair to be made in compliance with the provisions of this Title.

17.60.040 Designation of Space.

A. Upon the filing of an application under Section 17.60.030 the Director of the Bureau of Transportation City Engineer will designate the portion of space and location within the street area or public use easement designated in Section 17.60.010 to be used by the applicant. No part or parts of street area shall be used except as designated by the Director of the Bureau of Transportation City Engineer.

B. No facilities shall be constructed to prevent the City from constructing sewers, grading, paving, repairing and/or altering any Street; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, so as not to injure or prevent the unrestricted use and operation of the Permittee's system. However, if any portion of the Permittee's system interferes with the construction or repair of any street or public improvement, including construction, repair or removal of a sewer or water main, the City may direct the Permittee to relocate as provided in Section 17.56.060.

17.60.050 Filing Plans and Specifications.

The applicant for permit shall file with the Director of the Bureau of Transportation City Engineer plans and specifications for an underground system for conduction of current or energy in trenches, conduits or subways for wires, cables, and appliances including the necessary vaults, manholes and service boxes, and in addition thereto shall file a map showing the general route and location of the trenches, conduits or subways.

17.60.060 Issuance of Permit.

Subject to payment of the applicable fees prescribed in Chapter 7.12, if the City Engineer finds that the application and the plans, specifications and route map filed are satisfactory, the Director of the Bureau of Transportation City Engineer may approve the same and issue to the applicant a permit to enter upon the designated streets, public use easements designated in Section 17.60.010 or parts thereof in an underground wiring district, to make such excavation therein, as may be necessary to construct conduits or subways, to lay wires, cables and appliances therein, and to build vaults, manholes or service boxes underground within the space theretofore designated. It is unlawful to make any excavation in any street or public use easement designated in Section 17.60.010 to install underground facilities, without a permit from the Director of the Bureau of Transportation City Engineer and paying the fees set forth in Section 17.24.020. All excavation work and restoration pursuant to the permit shall be under the general supervision of the Director of the Bureau of Transportation City Engineer and shall be made only after notice to the Director of the Bureau of Transportation City Engineer.

Section 17.60.070 Emergency Repair is repealed.

17.60.080 Restoration of Streets and Public Use Easements.

Upon the installation and completion of any underground system of wires and appliances, the person installing the same shall restore the surface of all pavements, improvements, landscaping and foundations thereof which were disturbed or undermined, in as good order and condition as they were prior to the installation, in accordance with the plans and specifications and as directed by and to the satisfaction of the Director of the Bureau of Transportation City Engineer.

17.60.090 Use of Sidewalk Space and Building Fronts.

Any person owning or operating underground wires, conduits, or subways in compliance with this Chapter may connect the same with the side lines of the street, if approved by the Director of the Bureau of Transportation ~~City Engineer~~, and to that end, may use the space under the streets and sidewalks as may be necessary or convenient, and may also have access to all area-ways under sidewalks, and may place and maintain such wires, cables and appliances in proper conduits in and through such area-ways or spaces. If wires or cables are run up the sides or in front of any building, such wires or cables shall be placed in proper enclosures as are required by the relevant state and local regulations governing the placement of such wires or cables ~~the City Engineer may find necessary~~ to prevent danger to life or property. If there are no relevant regulations the Director of the Bureau of Transportation may establish such requirements as he or she determines necessary to prevent danger to life or property. No wire, cable or the supports therefor shall cross any window or opening in any building.

17.60.100 Location Maps.

Every person to whom a permit has been granted pursuant to this Chapter shall, upon completion of the installation of underground wires, cables, and appliances, file with the Director of the Bureau of Transportation ~~City Engineer~~ duplicate maps, in a scale and format determined by the Director of the Bureau of Transportation, showing the location of the conduits or subways, wires, cables, vaults, manholes, and service boxes under said streets or within said public use easements designated in Section 17.60.010 or parts thereof. The Director of the Bureau of Transportation ~~City Engineer~~ shall maintain a record thereof.

17.60.110 **D.** Wires, cables, and appliances for telegraph, telephone, district telegraph, and fire alarm systems connected with wires or cables in underground conduits or subways of a public utility or a City system; provided that all wires for telegraph, telephone, district telegraph, and fire alarm systems above the surface of streets shall be placed on the sides or front of buildings in proper enclosures as the Director of the Bureau of Transportation ~~City Engineer~~ may find necessary to prevent danger to life or property, and these wires shall be connected underground from the foundations or basement of the buildings directly with the nearest wires or cables in conduits or subways.

17.60.110 **E.** Wires, poles and attachment hardware for transit electrification systems; provided that all wires or hardware for transit electrification systems above the surface streets shall be placed as the Director of the Bureau of Transportation ~~City Engineer~~ may find necessary to prevent danger to life or property within the requirements of the National Electrical Safety Code (ANSI C-2), and that if required, these wires shall be connected to underground wires from the foot or base of the respective poles.

Sections 17.60.130 through 17.60.150 are repealed.

Chapter 17.80, PLATS AND DEDICATIONS, is amended as follows:**17.80.010 Approval by Director of the Bureau of Transportation ~~City Engineer~~.**

No new Subdivision plat of lands within the City nor of any addition to the same shall be filed for record, nor shall any street, alley, or other way be dedicated, until the plat or dedication has been submitted to the Director of the Bureau of Transportation ~~City Engineer~~ together with proof that all special assessments on the property included have been paid, or bonded under the provisions of this Title relative to local improvement assessments, and until the Director of the Bureau of Transportation ~~City Engineer~~ has endorsed thereon his certificate that the special assessments appear to have been paid, or payment has been provided for by bonding, and that the plat of the lands or addition, or dedication of street or way is of a suitable and convenient character. If a portion of property covered by a bonded assessment is sought to be subdivided or dedicated, the owner must first obtain an apportionment of the assessment lien in accordance with procedures set forth in the City Charter. Whenever any plat of any addition or Subdivision of land within the corporate limits of the City is submitted to the Director of the Bureau of Transportation ~~City Engineer~~ by the Planning and Sustainability Commission, it is his duty, before approving plat, to require that all streets and alleys marked on said plats be of adequate width and he may require the streets and alleys to be aligned with other streets and alleys or extensions thereof, abutting on the land to be platted.

17.80.020 Appeal.

Any person aggrieved by the refusal of the Director of the Bureau of Transportation ~~City Engineer~~ to certify to a plat or dedication in accordance with the provisions of Section 17.80.010 may appeal to the Council by filing a written notice of appeal with the City Auditor within 10 days after refusal, and the Council shall hear and determine the matter with all convenient speed. If it reverses his decision, a certified copy of the resolution declaring the action shall be attached to the plat or dedication in lieu of the certificate.

Chapter 17.84, Vacations, is amended as follows:**17.84 STREET VACATIONS**

17.84.020 A. Whenever a request for a petition for the vacation of a street, public place or plat, or any part thereof is presented to the Director of the Bureau of Transportation ~~City Engineer~~, the person making the request shall pay to the Director of the Bureau of Transportation ~~City Engineer~~ a fee for preparation of the petition for vacation. The fee for this service shall be established annually by the Director of the Bureau of Transportation ~~City Engineer~~ and shall recover full costs including all applicable overhead charges.

17.84.020 B. When a completed petition is presented to the City Auditor for filing and consideration by the Council, the person presenting the petition for the vacation shall pay to the City Auditor a fee, established by the Director of the Bureau of Transportation City Engineer, to cover the estimated costs of processing the petition. All departments or bureaus involved in processing a vacation shall keep records of the costs incurred on each individual vacation proceeding and shall submit such costs to the Director of the Bureau of Transportation City Engineer prior to passage of the vacating ordinance. If the actual cost of advertising and expenses, and all processing costs, including employee salaries and applicable overheads, related to the vacation exceed the fee collected, a sum sufficient to cover all such costs shall be collected before the vacation is completed, and payment thereof shall be a condition of the vacating ordinance.

17.84.030 Preliminary Consideration of Petition.

Pursuant to ORS 271.080 through 271.100, when a petition for the vacation of a street, public place or plat is presented to the City, the Auditor shall review the petition as provided by the statutes, and shall submit the petition to the Commissioner-in-Charge of the Bureau of Transportation, the Director of the Bureau of Transportation City Engineer and Bureau of Planning and Sustainability for review. The Commissioner in charge of the Bureau of Planning and Sustainability shall refer the petition to the Planning and Sustainability Commission for action. The Commissioner in charge of the Bureau of Planning and Sustainability shall prepare a report to Auditor containing the findings and recommendations of the Planning and Sustainability Commission and Director of the Bureau of Transportation City Engineer, and shall submit the report and petition to Council for consideration. The report may include recommended conditions of approval. Upon receiving the report of the Commission, the Auditor shall file the petition and forward the petition and Commissioner's report to the Council for its preliminary consideration as provided by ORS 271.100. This review process shall be completed before the City publishes or posts public notices of the contemplated vacation.

17.84.040 Bond or Cash Deposit.

When the Council is petitioned to vacate any street, public place or plat or part thereof, in which water mains, fire hydrants, police or fire alarm system, gas mains, steam heating mains, conduits, sewer mains or laterals, manhole structures, poles, wires or other utility or public service facilities are constructed and maintained, and the proposed vacation will require the removal of the utility or public service facilities or any portion of them, or if curbs or sidewalks are required to be extended or relocated, or if grading or additional paving is required, the ordinance vacating the street or part thereof may provide that the vacation shall not be effective unless the petitioner shall file with the Auditor of the City his acceptance of the terms and provisions of the ordinance together with a surety bond or cash deposit, in such sum as shall be fixed by the Council. The surety bond or cash deposit shall be to the effect that, in the event the vacation is granted, the petitioner will, within 90 days or such other time as the Council may fix after the vacation ordinance is effective, remove or have removed by the owner, all or any part of the utility or public service facilities as required by the vacation ordinance and reconstruct and relay the

facilities or have them reconstructed and relaid by the owner in the places as may be required by the Director of the Bureau of Transportation City Engineer, and obtain other work as required by the ordinance in the manner directed by the Director of the Bureau of Transportation City Engineer, all at the expense of the petitioner.

Chapter 17.88, STREET ACCESS, is amended as follows:

17.88.020 B. If such street or any other street adjacent to the property ~~used for vehicular access for said property~~ does not have a standard full width improvement, including sidewalks, the owner as a condition of obtaining a building permit, conditional use, zone change, land partition or adjustment, shall provide for such an improvement or a portion thereof as designated by the Director of the Bureau of Transportation City Engineer, in accordance with provisions elsewhere in this Title.

17.88.020 C. Based on findings that a standard improvement is not feasible, the Director of the Bureau of Transportation City Engineer may allow a temporary improvement appropriate for the circumstances, on the condition that the City will not maintain said temporary improvement and the owner will provide the City with a notarized document, approved as to form by the City Attorney, to be filed with the County in which property is located, stating that the present and future owners will be counted in favor of any proposed standard improvement of said street. Fee for said filing and any other expense of the City incidental to accomplishing the temporary improvement shall be paid by the owner.

17.88.040 A. Through streets as required by the Director of the Bureau of Transportation City Engineer connecting existing dedicated streets, or at such locations as designated by the Director of the Bureau of Transportation City Engineer, shall be provided for any development or redevelopment.

17.88.040 B. Partial-width streets as required by the Director of the Bureau of Transportation City Engineer where full-width streets could reasonably be provided in the future with the development or redevelopment of abutting property.

17.88.040 C.1. Respond to and expand on the adopted street plans, applicable to the site or area, or in the absence of such plan, as directed by the Director of the Bureau of Transportation City Engineer;

17.88.040 C.5. Include street cross section(s), as directed by the Director of the Bureau of Transportation City Engineer